



## **U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS**

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### **FACT SHEET: OVERVIEW OF SECTION 311 OF THE USA PATRIOT ACT**

Section 311 of the USA PATRIOT Act (Section 311) grants the Secretary of the Treasury the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transaction, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies (e.g., banks) to take certain “special measures” against the entity identified as a primary money laundering concern. This authority provides the Secretary with a range of options that can be adapted to protect the U.S. financial system from specific money laundering and terrorist financing risks. The Secretary has delegated implementation of Section 311 to the Director of the Financial Crimes Enforcement Network (“FinCEN”).

#### **Implementation**

Once the Director of FinCEN determines that a foreign financial institution is of “primary money laundering concern,” the Director has the authority to require domestic financial institutions and financial agencies to take certain special measures against the entity determined to be a primary money laundering concern. These special measures range from requiring U.S. financial institutions to conduct additional due diligence and pay special attention to particular account transactions to prohibiting the opening or maintenance of any correspondent or payable-through accounts. The following special measures can be imposed individually, jointly, in any combination and in any sequence:

- Record keeping on and reporting of certain transactions;
- Collection of information relating to beneficial ownership;
- Collection of information relating to certain payable-through accounts;
- Collection of information relating to certain correspondent accounts; and
- Prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts

The finding that a foreign jurisdiction, foreign financial institution, class of transaction, or type of account is of primary money laundering concern pursuant to Section 311 takes effect immediately, and U.S. financial institutions should take this information into account as part of their overall risk management programs.

Concurrent with the finding, FinCEN issues a Notice of Proposed Rule Making (NPRM) explaining which special measure(s) is proposed. This is a regulatory process subject to public notice and comment. Upon review of the comments received, and in consideration of any other available information or further review, including an assessment of any subsequent remedial or ameliorative actions taken by the financial institution or jurisdiction found to be a primary money laundering concern, the Director can proceed with a final rule, withdraw the finding and proposed rule, or keep the matter open for further review.

Each of the special measures, other than the prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts, may be imposed by order for a limited period after which a final rule is needed to continue them.

In some instances, entities identified as primary money laundering concerns may take action to change their practices and mitigate the risks and vulnerabilities identified as supporting the finding of primary money laundering concern. In such circumstances, the Director may decide not to pursue a final rule implementing special measures. If a final rule has been promulgated, that rule may be repealed. Alternatively, depending on the facts, the Director may determine that it is appropriate not to withdraw a proposal or repeal a final rule.

Section 311 actions are distinct from designations made by Treasury's Office of Foreign Assets Control (OFAC), which generally prohibit transactions and trigger asset freezing obligations.

Since 2002, Treasury has utilized its authority under Section 311 against four jurisdictions and 13 financial institutions, based upon various types of illicit conduct, including the facilitation of narcotics trafficking, currency counterfeiting, and laundering of funds.

The four jurisdictions include:

- Ukraine: rescinded in 2003
- Nauru: rescinded in 2008
- Burma: rule finalized in 2004
- Iran: rulemaking commenced in 2011

The 13 financial institutions include:

- Myanmar Mayflower Bank: rescinded in 2012
- Asia Wealth Bank: rescinded in 2012
- Infobank (now known as PJSC Trustbank) and its subsidiary, Belmetalnergo (Belarus) rulemaking commenced in 2004
- Commercial Bank of Syria (including Syrian Lebanese Commercial Bank): rule finalized in 2006

- VEF Bank (Latvia): rescinded in 2011
- Multibanka (Latvia): rescinded in 2006
- Banco Delta Asia (Macau): rule finalized in 2007
- First Merchant Bank OSH, Ltd. and subsidiaries (Northern Cyprus): rescinded in 2008
- The Lebanese Canadian Bank (Lebanon): rulemaking commenced in 2011
- JSC CredexBank (Belarus): rulemaking commenced in 2012
- Kassem Rmeiti & Co For Exchange (Lebanon): rulemaking commenced in 2013
- Halawi Exchange Co. (Lebanon): rulemaking commenced in 2013
- Liberty Reserve SA (Costa Rica): rulemaking commenced in 2013

*For more information on actions taken under Section 311, visit [link](#).*

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