

## Anti-Money Laundering Program

### SEC Requests Broker-Dealers Make SARs and SAR Information Available to FINRA

Effective Date: January 26, 2012

#### Executive Summary

The Financial Crimes Enforcement Network (FinCEN) regulations regarding the confidentiality of suspicious activity reports (SARs) require a broker-dealer to make SARs and supporting documentation available to any self-regulatory organization (SRO) that examines the broker-dealer for compliance with the requirements of 31 CFR 1023.320 (the SAR Rule), upon the request of the SEC.<sup>1</sup> On January 26, 2012, the SEC issued a letter to FINRA authorizing FINRA staff to ask for SARs and SAR information from member firms in certain circumstances. On the same date, SEC staff also issued a letter to chief executive officers of all SEC-registered FINRA member firms requesting that they make SARs and supporting documentation available to FINRA as outlined below.

Questions regarding this *Notice* should be directed to Sarah Green, Senior Director, Enforcement, at (202) 974-2784.

#### Background and Discussion

FinCEN issued a final rule (effective January 3, 2011) amending the Bank Secrecy Act (BSA) regulations regarding the confidentiality of SARs.<sup>2</sup> The regulations require a broker-dealer to make SARs and supporting documentation available to any SRO that examines the broker-dealer for compliance with the requirements of 31 CFR 1023.320 (the SAR Rule), upon the request of the SEC.<sup>3</sup>

In a January 26, 2012, letter to FINRA, the SEC requested that all FINRA member firms make SARs and supporting documentation as well as any information that would reveal the existence of a SAR or any decision to not file a SAR available to FINRA.

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#### Notice Type

- ▶ Guidance

#### Suggested Routing

- ▶ Compliance
- ▶ Senior Management

#### Key Topics

- ▶ Suspicious Activity Reports
- ▶ Anti-Money Laundering

#### Referenced Rules & Notices

- ▶ 31 CFR 1023.320, Bank Secrecy Act
- ▶ FINRA Rule 3310

The SEC's request applies to all FINRA member firms and applies to requests in connection with FINRA's:

- ▶ examinations;
- ▶ investigations; and
- ▶ risk assessment efforts within its examination program.

FINRA staff may request SARs and SAR information, or question firm staff, about SAR-related activity from any time frame within the examination or investigation review period, including any time prior to the SEC issuance of the letter.

The letter also emphasizes that the SEC expects FINRA to implement the SEC's request to firms in accordance with the SAR Rule, including the confidentiality provisions.

The open letter to CEOs from SEC staff directs member firms to make SARs and related information available to FINRA as discussed above, and also informs firms that they may contact SEC staff via the SEC SAR Alert Message Line at (202) 551-SARS (7277) if they have any concerns about FINRA's implementation of the SEC's request.

To obtain additional information, please review the SEC's letters to FINRA and to CEOs of all FINRA firms.<sup>4</sup>

## Endnotes

1. See Department of Treasury Release, Financial Crimes Enforcement Network: Confidentiality of Suspicious Activity Reports, 75 Fed. Reg. 75,593 at 75,597 (Dec. 3, 2010).
2. See [Financial Crimes Enforcement Network: Confidentiality of Suspicious Activity Reports, 31 CFR 1023.320](#) (formerly 31 CFR 103.19). For additional information on FinCEN's Final Rule and FinCEN's Advisory FIN-2010-A014 (issued November 23, 2010), please refer to [http://www.fincen.gov/news\\_room/nr/html/20101122.html](http://www.fincen.gov/news_room/nr/html/20101122.html). Effective March 1, 2011, FinCEN reorganized the BSA's implementing regulations into a new chapter within title 31. As part of this reorganization, FinCEN moved the regulations reflected in 31 CFR Part 103 into 31 CFR Chapter X. See [75 Fed. Reg. 65,806](#) (October 26, 2010).
3. See Department of Treasury Release, Financial Crimes Enforcement Network: Confidentiality of Suspicious Activity Reports, 75 Fed. Reg. 75,593 at 75,597 (Dec. 3, 2010).
4. See SEC Letter to FINRA: Implementation of the SEC's Request to SEC-Registered FINRA Member Broker-Dealers and Open Letter to CEOs of All-SEC-Registered, FINRA Member Broker Dealers at <http://www.sec.gov/about/offices/ocie.shtml>.