Department of the Treasury
Financial Crimes Enforcement Network

Advisory

FIN-2010-A001
Issued: February 18, 2010
Subject: Advisory to Financial Institutions on Filing Suspicious Activity Reports regarding Trade-Based Money Laundering

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The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to inform and assist the financial industry in reporting suspected instances of trade-based money laundering.[1] This advisory contains examples of "red flags" based on activity observed in Suspicious Activity Reports (SARs) that may indicate trade-based money laundering. While SARs are not proof of illegal activity, they can provide law enforcement with valuable indicators that this type of money laundering may be occurring. The examples discussed in this advisory are based on specific law enforcement experience involving U.S. trade with Central and South America, but the types of activity detailed herein are by no means confined to those regions, and financial institutions are advised to take appropriate measures to mitigate the risks of analogous activity occurring globally.

Criminal organizations use the international trade system to transfer value across international borders and disguise the illicit origins of criminal proceeds. According to the 2009 International Narcotics Control Strategy Report (INCSR), it is estimated that the annual dollar amount laundered through trade ranges into the hundreds of billions.[2] Additionally, U.S. Immigration and Customs Enforcement (ICE) reports that their trade-based money laundering case initiations have increased since 2004.[3] The Financial Action Task Force (FATF)[4] names trade-based money laundering as an increasingly important money laundering and terrorist financing vulnerability. FATF lists the physical movement of goods through the trade system as one of three methods criminal organizations and terrorist financiers use to move money for the purpose of disguising its origins and integrating it into the formal global economy.[5] Illicit activity is often hidden,

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[1] In developing this advisory, FinCEN examined the illicit use of trade operations and related activities, such as disguising the proceeds of criminal activity through the use of trade transactions, including misrepresentation of the price, quantity and quality of imports or exports.
[2] 2009 International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crimes, February 27, 2009, http://www.state.gov/p/inl/rls/nrcrpt/2009/vol2/116537.htm.
[3] The relationship, if any, between this increase and the allocation of ICE resources dedicated to the detection and investigation of TBML is unknown.
[4] The FATF is a 35 member inter-governmental policy-making body whose purpose is to establish international standards, and develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. See http://www.fatf-gafi.org. The United States is a member of the FATF.
[5] According to FATF, the other two methods used by criminal organizations and terrorist financiers to move criminal proceeds and integrate them into the formal economy are use of the financial system and

due in part to the enormous volume of international trade transactions (an estimated $15.7 trillion in global merchandise exports in 2008).[6]

Trade-based money laundering typologies such as black market exchange systems have evolved in response to government efforts to close vulnerabilities in the international financial and trade systems. For example, the efforts of the U.S. Government to restrict the domestic placement of illicit cash have led to an exponential increase in cash smuggling from the United States, especially into Mexico. After drug proceeds are smuggled into Mexico as bulk cash, Mexican Drug Trafficking Organizations (DTOs) use a portion of these proceeds to settle drug debts or purchase future drug shipments from Colombian DTOs. Some of the bulk cash may eventually make its way into the formal financial sector in Mexico, notwithstanding the positive and continuing efforts of the Mexican government and Mexican financial institutions to develop and implement anti-money laundering and countering the financing of terrorism (AML/CFT) safeguards. The funds can then be co-mingled with legitimate proceeds at these financial institutions and then used to fund wire transfers to countries such as China, Panama and the United States. The funds are used to purchase goods that are later sold on the black market.[7]

Trade-based money laundering methods vary in typology from the most basic to very complex schemes. Basic schemes include misrepresenting the price and quantity of goods and services (over and under invoicing), and invoicing the same goods or services more than once (double invoicing).[8]

The Colombian Black Market Peso Exchange (BMPE) is an example of a complex method of trade-based money laundering. The BMPE originally was driven by Colombia's restrictive policies on currency exchange. To circumvent those policies, Colombian businesses bypassed the government levies by dealing with peso brokers that dealt in the black market or parallel financial market. Colombian drug traffickers took advantage of this method to receive Colombian pesos in Colombia in exchange for U.S. drug dollars located in the United States.[9] According to the U.S. State Department's 2007 INCSR, similar black market exchange systems are found in Venezuela and in the tri-border region of Argentina, Brazil, and Paraguay.[10] The U.S. State Department also

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physical movement of money (e.g. through the use of cash couriers). See the Financial Action Task Force, "Trade Based Money Laundering," Executive Summary, June 23, 2006, http://www.fatf-gafi.org/dataoecd/60/25/37038272.pdf.

[6] "International Trade Statistics, 2009," World Trade Organization, October 28, 2009, http://www.wto.org/english/res_e/statis_e/its2009_e/its09_toc_e.htm.

[7] "The Consolidation and Flow of Bulk Cash by Mexican Drug Trafficking Organizations," the U.S. Department of Justice, National Drug Intelligence Center, November, 2009.

[8] See the Financial Action Task Force Report, "Trade Based Money Laundering," Executive Summary, June 23, 2006, http://www.fatf-gafi.org/dataoecd/60/25/37038272.pdf.

[9] Black market peso exchange facilitates the "swap" of dollars owned by drug cartels in the United States for pesos already in Colombia, by selling the dollars to Colombian businessmen who are seeking to buy United States goods for export. See FinCEN Advisory Issue 9, *Colombian Black Market Peso Exchange*, November, 1997. See also the "2007 National Money Laundering Strategy," Chapter 6, Trade-Based Money Laundering, http://www.treas.gov/press/releases/docs/nmls.pdf.

[10] 2007 International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crime, March 2007, http://www.state.gov/documents/organization/81447.pdf.

reports that trade goods in Dubai as well as Chinese and European manufactured trade items are being purchased through narcotics-driven systems similar to the BMPE.[11]

Black market currency exchange systems have evolved in part due to increased diligence by U.S. financial institutions. In the past, a common method used for initial placement of illicit funds into the financial system was structured deposits in the form of cash, money orders or other financial instruments. Today, money launderers are employing diversified methods such as utilizing individuals or businesses that have control over numerous bank accounts, often spread over multiple financial institutions, and bulk cash smuggling from the United States. The smuggled U.S. dollars are deposited into foreign institutions – often in Mexico, but also in Central and South American countries – and wired back to the United States and other prominent trade countries as payments for international trade goods and services.

SAR filings on suspected TBML are increasing;[12] however, it can be difficult to identify these activities given that financial institutions see only the documents related to a transaction and not the goods themselves. Further, documents related to trade-based money laundering may be created by the money launderers themselves with no neutral third party to verify the validity of the documents.

Potential Indicators of Trade-Based Money Laundering

FinCEN and the National Drug Intelligence Center (NDIC), with input from ICE's El Dorado Task Force,[13] have identified the following activities that may be associated with trade-based money laundering. These red flags may be directly linked to a misrepresentation of price, quantity or quality of merchandise involved in a trade transaction processed through a financial institution. Although the activities from this study were specifically focused on trade with Mexico and Central and South America, financial institutions may wish to apply these indicators more globally. None of the country-specific examples included in this advisory, however, should in any way be interpreted with any implication to the hundreds of billions of dollars in legitimate trade transactions conducted every year between the United States and Mexico or Central and South America.[14] Also, please keep in mind that this list of red flags identifies only *possible* signs of illicit activity and must be considered in conjunction with the normal transaction activity expected for the individual customer. In particular, any of the following red flags seen in conjunction with shipments of high dollar merchandise (such

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[11] See the U.S. Department of State, "International Narcotics Control Strategy Report," March 2008, http://www.state.gov/p/inl/rls/nrcrpt/2008/vol2/html/101353.htm.

[12] Over 17,000 SARs reporting potential TBML activity that occurred between January 2004 and May 2009 reported transactions that involved in the aggregate over $276 billion. While FATF's 2006 Report on Trade Based Money Laundering reported few instances of trade-related activities in suspicious activity reports, FinCEN explored a broader spectrum of trade operations and related activities in developing this advisory.

[13] ICE's El Dorado Task Force consists of members from more than 55 law enforcement agencies in New York and New Jersey working in partnership to target vulnerabilities and financial crimes in the New York/New Jersey metropolitan area, such as commodity-based money laundering.

[14] "U.S. International Trade in Goods and Services, November 2009," U.S. Bureau of Economic Analysis, U.S. Department of Commerce, January 12, 2010, http://www.census.gov/foreign-trade/Press-Release/current_press_release/ft900.pdf.

as electronics, auto parts and precious metals and gems) to duty free trade zones, such as in the Colon Free Trade Zone in Panama, could be an indication of a trade-based money laundering or black market peso exchange activity:

- Third party payments for goods or services made by an intermediary (either an individual or an entity) apparently unrelated to the seller or purchaser of goods. This may be done to obscure the true origin of the funds.

- Amended letters of credit without reasonable justification.

- A customer's inability to produce appropriate documentation (i.e., invoices) to support a requested transaction.

- Significant discrepancies between the descriptions of the goods on the transport document (i.e., bill of lading), the invoice, or other documents (i.e., certificate of origin, packing list, etc.).

Other potential red flags for trade-based money laundering or black market peso exchange activities include:

- Negotiable instruments (such as traveler's checks, cashier's checks and money orders) in round denominations under $3,000 used to fund domestic accounts or, alternatively, smuggled from the United States for placement into accounts at foreign financial institutions. The negotiable instruments may be sequentially numbered or purchased at multiple locations and may frequently lack payee information or contain visible broker markings or symbols. These negotiable instruments may also be used to pay for goods and services.

- International wire transfers received as payment for goods into U.S. bank accounts or processed through U.S. correspondent or intermediary accounts, especially where the ordering party (importer of goods) of the wire does not live in the country from which the wire originated. For example:

    - Wires originating from jurisdictions which have been highlighted in relation to black market peso exchange activities, such as Mexico, Guatemala, Argentina, Brazil, Paraguay, Uruguay, Venezuela;
    - Payment destinations that include United States, Hong Kong, China, South Korea, Taiwan, Spain, Panama, Curacao, as they relate to duty free trade zones;
    - Wires where no apparent business relationship appears to exist between the originator and the beneficiary;
    - Customers who fail to provide adequate information, including adequate information on the originator, beneficiary, and purpose of the wire; or
    - Frequent transactions involving rounding or whole dollar amounts.

- Funds transferred into U.S. domestic accounts that are subsequently transferred out of the account in the same or nearly the same amounts. Origination and destination locations are frequently high risk jurisdictions.

- Sudden onset and equally sudden cessation of payments – typically wire transfers – within a short duration. This could be an indication that the account is temporarily being used to launder illicit proceeds.

- A foreign import business with U.S. accounts receiving payments from locations outside the areas of their customer base.

- U. S. companies operating out of foreign countries, especially when it is difficult or impossible to determine ownership or controlling persons for the company, or when the business purpose is not fully apparent.

- Unusual deposits occurring in combination with one or more of the following indicators:

    - Multiple deposits occurring in various locations when the account owner resides elsewhere, for example, deposits made in New York and Michigan when the account owner resides in Florida.
    - A customer with multiple bank accounts, or multiple accounts held by the customer and closely related family members. These accounts may be held at one or more financial institutions. Such accounts may be used to facilitate the placement and layering of illicit funds.
    - Checking accounts receiving cash deposits in amounts under $1,000 as infrequently as several times per month. These deposits may be followed by ATM withdrawals in foreign countries. This method, sometimes referred to as micro-structuring, is used by "smurfs"[15] to deposit cash which may then be used to purchase goods.

- Foreign visitors opening multiple U.S. bank accounts at one or more financial institutions. Individuals may travel to the United States with instructions to establish multiple bank accounts as a straw party. Upon return to their home country the straw account owner signs all of the blank checks and relinquishes control of the checkbooks and ATM cards tied to the accounts to the beneficial owner who now has control of the accounts. The following are examples of activity common to these accounts:

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[15] "Smurfs" are teams of persons who, acting in conjunction with or on behalf of other persons, structure financial transactions for the purpose of evading the requirement to file a Currency Transaction Report. "Structuring" as the term is used in the BSA includes not only attempts to evade reporting requirements, but also attempts to evade the Travel Rule and related recordkeeping requirements at 31 CFR 103.33. See 31 USC 5324.

- Cash deposits received using over-the-counter deposit slips since the checkbooks containing the pre-printed deposit slips as well as ATM cards are located out of country;
- Deposits which are frequently made in multiple U.S. jurisdictions;
- Withdrawals made via foreign ATM transactions; or
- Withdrawals via check transactions that exhibit a difference between the handwriting for the signature and the payee portions of the check.

- Unusual activity in established U.S. bank accounts for non-resident aliens, such as structured cash and monetary instrument deposits; checks written from the U.S. account to foreign businesses with no apparent relationship to the account holder; and international wire transfers to entities that do not appear to have any relationship with the originator.

- Currency Transaction Reports (CTRs) generated for accounts having multiple cash deposits in a single day. Depository institutions should be particularly aware of cash deposits occurring in multiple branch locations, including those located in different states.

- Sequentially numbered checks drawn on U.S. accounts negotiated through foreign money services businesses, for example, *casas de cambios*. Some checks may be payable directly to *casas de cambios* instead of specific businesses or individuals.

It is important to remember that no one activity by itself is a clear indication of trade-based money laundering. Due to some similarities with legitimate financial activities, financial institutions should evaluate indicators of potential trade-based money laundering in combination with other red flags and expected transaction activity for its customer before making determinations of suspiciousness. Additional investigation and analysis may be necessary to determine if the activity is suspicious, based on information available to the financial institution. Further information on trade-based money laundering, and related SAR filings, can be found in Appendix A.

Suspicious Activity Reporting

In order to assist law enforcement in its effort to target trade-based money laundering and black market peso exchange activities, FinCEN requests that financial institutions check the appropriate box in the Suspicious Activity Information section of the SAR form and include the abbreviation "TBML"[16] or "BMPE"[17] in the narrative portion of all relevant SARs filed. The narrative should also include an explanation of why the institution suspects, or has reason to suspect, that the customer is participating in this type of activity.

Financial institutions with questions or comments regarding this Advisory should contact FinCEN's Regulatory Helpline at 800-949-2732.

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[16] Trade-based money laundering (TBML)
[17] Black Market Peso Exchange (BMPE)

APPENDIX A

Trade-based Money Laundering Magnitude as Reported in SARs

SAR filings on suspected TBML are increasing;[18] however, it can be difficult to identify these SARs. Filers clearly identified the activity as TBML or BMPE in only 24 percent of the SAR narratives analyzed in conjunction with this advisory. The remaining 76 percent of the SARs potentially associated with TBML required complex queries that included trade and other terms derived from the red flags identified in this Advisory (see Figure A).

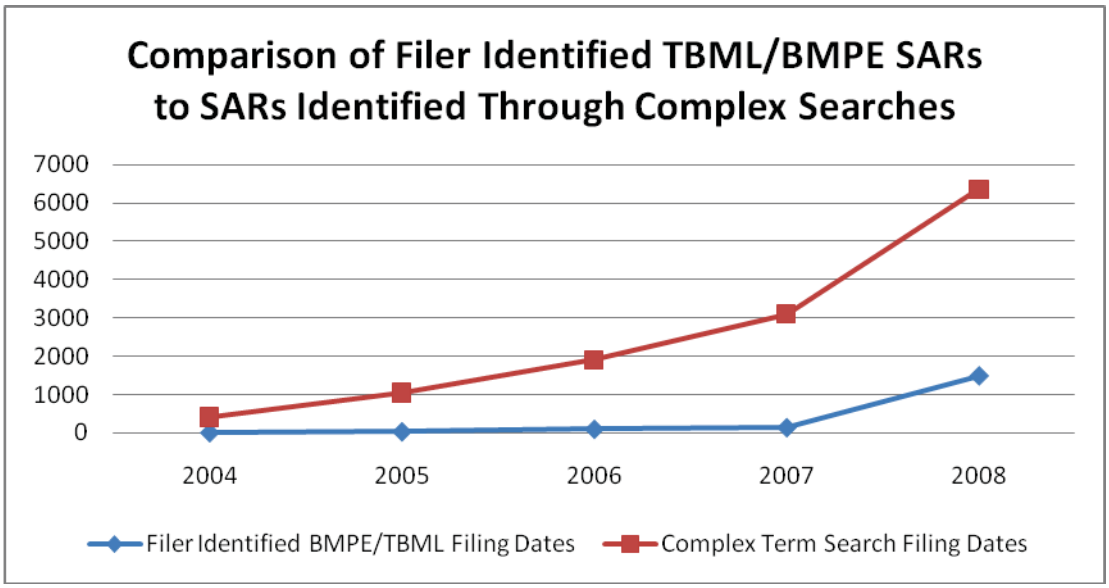

Figure A

While SAR filings related to trade-based money laundering are increasing, the activity dates reported on the SARs indicate there is a substantial interval between when the activity occurs and when it is identified and reported. This could indicate that financial institutions are first becoming aware of such activity through law enforcement inquiries or media reports, or through other suspected illicit activities involving their customers which may be identified through open sources. For example, based on the SARs retrieved in conjunction with this advisory, 14 percent of the suspected TBML activity that occurred in 2004 was reported in 2004, while 30 percent of the 2004 activity was not reported until the first half of 2009, five years after the activity occurred. Figure B provides a comparison of SAR filing dates to the dates when the TBML activity occurred.

[18] Over 17,000 SARs reporting potential TBML activity that occurred between January 2004 and May 2009 reported transactions that involved in the aggregate over $276 Billion.

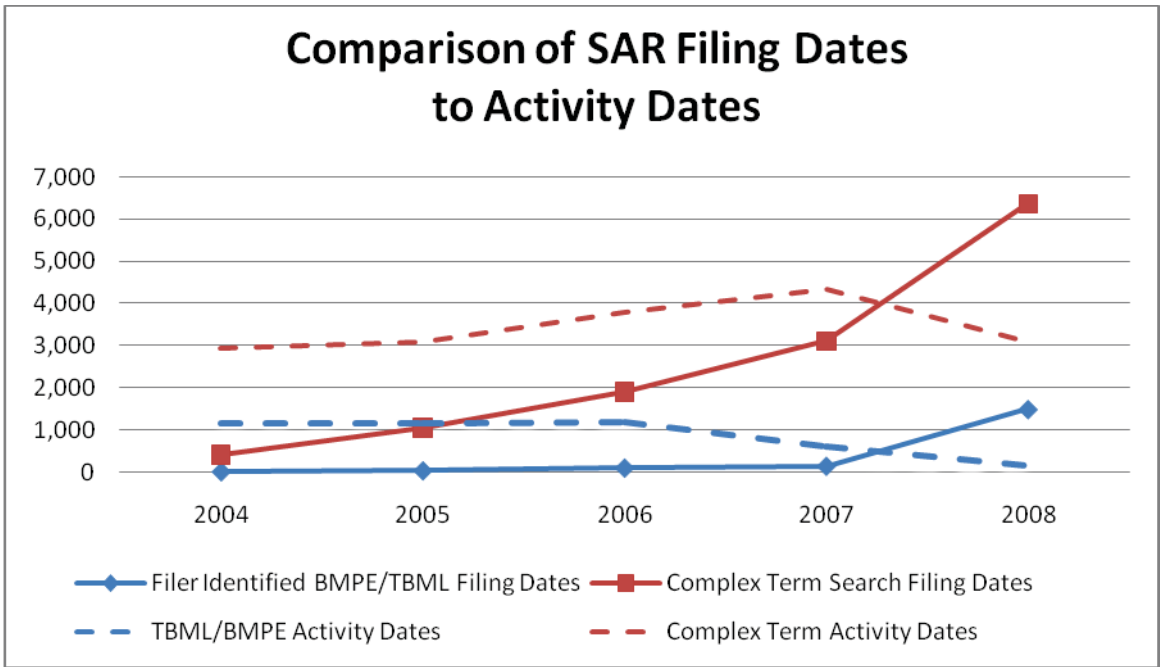

Figure B

Analysis of SARs identified as reporting TBML activity have revealed trends that may be valuable to law enforcement with regard to resource allocations. Transactions involving entities in Mexico and China[19] were the most frequently named in SAR narratives reporting TBML activity. However, over the four year period from 2004 to 2008, TBML SAR narratives involving transactions in China continued to increase while narratives citing a connection to Mexico were beginning to decrease. Panama was ranked third in the total number of SAR narratives describing suspected TBML possibly due to activity in the Panama Colon Free Trade Zone. Analysis of the change in frequency of countries reported in TBML SARs between 2004 and 2007[20] revealed that the Dominican Republic, followed closely by Venezuela, are the countries with the most rapid growth in potential TBML activity.

[19] Narrative searches for China included Taiwan and Hong Kong.

[20] As noted in Figure B, there is a lag time between when the activity occurs and when filers identify and report the activity as suspicious. For this specific reason, 2007 data was used to calculate the percentage of change as 2007 data appears to be more complete than 2008.