



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

fff@fff.org www.fff.org

The Government's War on Money Laundering **by Gary D. Barnett**

As a provider of financial services, once again I am required to attest (i.e., declare to be correct and true or genuine), by using the Compliance Attestation System, that I have read and understand and agree to the third-quarter anti-money-laundering training information. I have no effective choice. I can't disagree. I am to attest or be out of compliance with finance regulations. I am required to do this quarterly or else. This is not new, but I thought it worth revisiting, owing to this quarter's subject matter: "Foreign Accounts."

The opening statement, which concerns foreign clients, reads, "Opening accounts for foreign clients presents various AML [anti-money-laundering] concerns." So immediately if one is from a foreign country and chooses to open an account with me, I am to be suspicious. He may have to be referred to the firm's AML officer (who reports directly to the FBI) so that additional due diligence can be performed and documented. The questions that I may or will have to ask are these:

- * How did you meet the client?
- * Was he a referral from an established relationship? If yes, from whom? (Report thy neighbor.)
- * Where did you meet him? In the United States or in his country of origin?
- * If he will spend a good portion of his time in his own country then what is the communication plan? Does the client speak English or do you speak his language?
- * What is his business or line of work?
- * Is he a politically exposed person (PEP), a senior foreign political figure, or an immediate family member of someone who is?
- * What is his source of funds and his anticipated account activity?
- * Do you have reason to believe he will be making significant transfers of funds to and from his home country?

Also required will be a passport, a U.S. 10-year visa, or a U.S.-issued green card for identification purposes. (Remember, the client is not moving here; he is just opening an account.)

Many may think all this information legitimate and necessary, but is it really? Obviously when I work for a client, I want to know things about him so that I may do a proper job of advising him concerning his investments. This is understood and expected. But there is much more to this process than meets the eye.

One of the fundamental goals (so-called) of the USA PATRIOT Act was to protect access to the U.S. financial system by requiring records and due-diligence programs for foreign-correspondent accounts. This was never a problem in the past, but now, at least according to our rulers in Washington, it is needed because of the 9/11 terrorist attacks. U.S. Senate investigative reports state that foreign-correspondent accounts are the gateway to the U.S. financial system. Foreign financial institutions maintain and always have maintained accounts with U.S. banks and broker dealers. Obviously that allows them to gain access to services and products that may not be available to them otherwise. This is no different from what U.S. banks and broker dealers do in other countries. With the passage of the USA PATRIOT Act, however, specifically in Sections 312, 313, and 319, certain *types* of correspondent accounts may be prohibited. Included are accounts held by foreign “shell” banks and banks that do not have the required “regulatory” due diligence necessary to satisfy U.S. officials. From there things get more complicated and restrictive, and one obvious component of current U.S. policy is that of unlimited information-gathering and total control over all business dealings between U.S. citizens and financial institutions on the one hand, and all foreign individuals or entities on the other.

What is desired here is full knowledge by U.S. government officials of all business conducted between any foreigner and any foreign entity or any U.S. citizen or U.S. entity, including mandatory divulging of the names of all owners of securities. No bearer shares (shares owned by anyone holding the security) are allowed and any language allowing that type of ownership in any foreign articles of incorporation has to be changed. In addition, all foreign entities doing business in the United States have to prepare and sign a separate statement *attesting* (there’s that word again) to these facts. All original articles of incorporation, any amendment, and the separate statement are copied and kept on file forever.

OFAC, the Office of Foreign Assets Control is a part of the U.S. Department of the Treasury. It “administers and enforces economic trade sanctions [protectionism and acts of war] based on U.S. foreign policy and national security goals against *targeted* [emphasis mine] foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.” OFAC has the power to impose controls on transactions and freeze assets under U.S. jurisdiction. This is nothing less than the power of the U.S. government to steal any foreign assets it chooses and for any reason it sees fit. Every new account, every check and wire, and all stock receipts are compared with an OFAC master list of prohibited names, and all that information is captured. There is no privacy whatever here. OFAC also maintains many sanction programs, including:

* Specially Designated Nationals List (SDN List). This lists individuals and organizations with whom U.S. citizens and residents are prohibited from doing business.

* Anti-Terrorism Sanctions. This executive order blocks property and prohibits transactions with persons who commit, threaten to commit, or support terrorist activities.

* Non-Proliferation Sanctions. These are designed to combat the proliferation of weapons of mass destructions.

* Diamond Mining Sanctions. These are obviously a way for OFAC to monitor and control diamond imports and they, along with other countries, launched the Kimberly Process Certification Scheme (KPCS) as the enforcement arm. (I can't make this stuff up — the wording is accurate.)

* Narcotics Sanctions. These block property and interests in property subject to U.S. jurisdiction owned and controlled by significant foreign narcotics traffickers, as identified by the president.

* Cuban Sanctions. These have been in effect since July 8, 1963.

Those are broad and sweeping powers indeed, but in addition to all this invasive action against foreigners and their financial transactions, OFAC also maintains sanctions against the Balkans, Belarus, Cote d'Ivoire (Ivory Coast), Democratic Republic of the Congo, Iran, Iraq, The Former Liberian Regime of Charles Taylor, North Korea, Sudan, Syria, and Zimbabwe. Fines for violation of sanctions are substantial and bordering on the ridiculous. Criminal penalty fines can range \$50,000 to \$10,000,000, with prison time ranging from 10 to 30 years.

Along with OFAC there is FinCen (Financial Crimes Enforcement Network). FinCen is also a part of the U.S. Department of the Treasury. Its mission is to

safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and *other* [emphasis mine] illicit activity. FinCen administers the Bank Secrecy Act, supports law enforcement, intelligence and regulatory agencies by sharing and analysis of financial intelligence, builds global cooperation with counterpart financial intelligence agencies and networks, people, ideas and information.

Effectively, this means that FinCen monitors everything financial, including standard day-to-day transactions made by all of us. They have a license to snoop that is open-ended and all-encompassing. All Suspicious Activity Reports (SARS) are filed through FinCen. More than 6,000 users representing 1,500 organizations actively access the information through this network. Nothing is private; nothing is sacred. Any and all financial information in this country, whether reported as suspicious or not, is captured and data-based. If reported as suspicious, the information is put on an expansive network for all users to see. That may not bother those who

worship the state and expect it to protect them at all costs to liberty, but this invasion should raise the ire in all of us.

With respect to money laundering, terrorist financing, and other financial-crime investigations, SARS filings through FinCen have led to many indictments and guilty pleas. They involve investment fraud, insurance fraud, bank fraud, drug smuggling, tax fraud, identity theft, and Ponzi schemes.

In this article, I am addressing only one aspect of the belligerent and invasive behavior perpetrated by government. I'm discussing only the finance industry and foreign transactions, along with their domestic counterparts, and how those business dealings are manipulated, monitored, and controlled by Leviathan owing to language allowing it in the very corrupt and dangerous USA PATRIOT Act.

Obviously, much more sinister activity is constantly taking place. Murderous, immoral, and unconstitutional wars, imperialistic expansion, thievery, property and civil-rights destruction, torture, and more go on every day while the mainstream American citizen goes about his business as if everything is hunky-dory. While I will never understand the complacency and apathy of most Americans concerning their own freedom and liberty, I still must always point out tyranny whenever I possibly can, and hope that this small bit of information arouses readers to outrage and indignation.

Gary D. Barnett is president of Barnett Financial Services, Inc., in Lewistown, Montana.

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