



FIN-2014-A001

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Advisory

Guidance to Financial Institutions on Recent Events related to the Departure of Victor Yanukovych and Other Ukrainian Officials

The Financial Crimes Enforcement Network (FinCEN) is issuing this Advisory to U.S. financial institutions to remind them of their responsibility to take reasonable, risk-based steps regarding the potential suspicious movement of assets related to Viktor Yanukovych departing Kyiv and abdicating his responsibilities and other senior officials resigning from their positions or departing Kyiv.¹ FinCEN is reminding U.S. financial institutions that they are required to apply enhanced scrutiny to private banking accounts held by or on behalf of senior foreign political figures² and to monitor transactions that could potentially represent misappropriated or diverted state assets, the proceeds of bribery

or other illegal payments, or other public corruption proceeds. Financial institutions should be aware of the possible impact that public reports of high-level corruption by senior members of the Yanukovych administration and other illicit activity by members of the administration may have on patterns of financial activity when assessing risks related to particular customers and transactions. This advisory is focused on potentially suspicious transactions involving senior members of the Yanukovych administration or those acting for or on their behalf, and is not intended to call into question the maintenance of normal relationships between financial institutions in the United States and Ukraine.

1. For updated information on developments concerning the administration of Victor Yanukovych, see <http://travel.state.gov/content/passports/english/alertswarnings/ukraine-travel-warning.html> and http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/141110.pdf.
2. “Senior foreign political figure” means a current or former senior official of a foreign government or of a major foreign political party; a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity that has been formed by, or of the benefit of, any such individual; the immediate family members of any such individual; and a person who is widely and publicly known (or is actually known by the relevant covered financial institution) to be a close associate of such individual. For the purposes of this definition, “senior official or executive” means an individual with substantial authority over policy, operations, or the use of government-owned resources and “immediate family member” means spouses, parents, siblings, children and a spouse’s parents and siblings. See, 31 CFR 1010.620(c) and 31 CFR 1010.605(p).

Guidance

If a financial institution knows, suspects, or has reason to suspect that a transaction relating to senior foreign political figures involves funds derived from illicit activity, including money laundering, terrorist financing, or any other violation of law or regulation, or if the transaction appears to have no business or lawful purpose or has a purpose inconsistent with the customer's known business, the financial institution must file a Suspicious Activity Report (SAR) consistent with FinCEN's regulations.³ In addition, covered financial institutions are reminded of the regulations implementing section 312 of the USA PATRIOT Act (31 U.S.C. 5318(i)), which require a written due diligence program for private banking accounts held for non-U.S. persons designed to detect and report any known or suspected money laundering or other suspicious activity.⁴ In instances where senior foreign political figures maintain private banking accounts at a covered institution, those financial institutions are required to apply enhanced scrutiny of such accounts to detect and report transactions that may involve the proceeds of foreign corruption.⁵

In April 2008, FinCEN issued Guidance to assist financial institutions with reporting suspicious activity regarding proceeds of foreign corruption. That Guidance also discusses potential indicators that transactions may be related to proceeds of foreign corruption.⁶ Financial institutions may find this Guidance useful in assisting with suspicious activity monitoring and due diligence requirements related to senior foreign political figures.

Additional questions or comments regarding the contents of this Advisory should be addressed to the FinCEN Resource Center at (800) 949-2732. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

3. See, e.g., 31 CFR 1010.320.

4. See, generally, 31 CFR 1010.620.

5. 31 CFR 1010.620(c).

6. See, "Guidance to Financial Institutions on Filing Suspicious Activity Reports Regarding the Proceeds of Foreign Corruption," FIN-2008-G005 (April 17, 2008). http://www.fincen.gov/statutes_regs/guidance/html/fin-2008-g005.html.