

FinCEN and Federal Banking Agencies Publish FAQ Guidance on Suspicious Activity Reporting Obligations

January 25, 2021

On January 19, 2021, the Financial Crimes Enforcement Network and the federal banking agencies issued a set of frequently asked questions (“[FAQs](#)”) regarding suspicious activity reporting (“[SAR](#)”) obligations. This guidance seeks to “clarify the regulatory requirements related to SARs” and enable “financial institutions to focus resources on activities that produce the greatest value to law enforcement.”

The FAQ guidance neither alters existing legal obligations nor creates new regulatory expectations. However, the guidance clarifies several points that have been subject to debate among anti-money laundering compliance personnel and supervisors. The FAQs are [available in full here](#). Key highlights include:

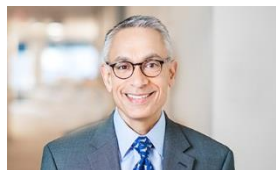
- **Providing Ongoing Services to Customers Identified in a SAR (FAQ #3).** Financial institutions are not required, nor expected, to terminate customer relationships after filing a SAR or “any number of SARs” regarding a particular customer. Institutions should instead deploy risk-based procedures in determining whether to maintain or terminate such relationships. These procedures should consider all relevant information about the customer’s activity and include escalation protocols to enable review by senior management and legal staff as warranted. However, “there is no specific number of SAR filings that a financial institution must consider to trigger any particular escalation step.”
- **SAR Filings Based on Receipt of a Subpoena or Negative News (FAQs #2, #4).** Financial institutions are not obligated to file SARs or take any particular action following receipt of a law enforcement inquiry (e.g., a grand jury subpoena) or on discovery of negative news, including repeated negative news, regarding a customer. Rather, institutions should consider “all information available and regulatory requirements” to determine whether a SAR may be required.
- **Account Relationships Following a “Keep Open” Request (FAQ #1).** Financial institutions, which often receive requests from law enforcement to “keep open” accounts open, notwithstanding suspicious activity, – may, but are not required to, maintain a customer relationship following receipt of a such a request from law

enforcement. –Importantly, such institutions should not face retrospective criticism for their decisions, however when a decision is made to keep an account open under these circumstances, institutions are “still required to comply with all applicable BSA requirements, including . . . to conduct ongoing risk-based monitoring, and, as appropriate, file SARs.”

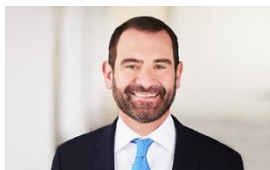
- **Investigating Multiple Negative News Alerts (FAQ #5).** Financial institutions do not have an obligation to investigate independently each negative news alert if the alerts are based on the same underlying event.
- **Repeat Information in Data Fields and SAR Narratives (FAQ #6).** Financial institutions need not repeat information in a SAR narrative that is provided in other SAR data fields. Instead, SAR narratives may benefit from including information about the suspicious activity that is not clear from SAR data fields alone, such as an explanation about why certain characterizations of suspicious activity were selected in the SAR data fields.
- **SAR Character Limits (FAQ #7).** Financial institutions should not file additional SARs on the same suspicious activity to accommodate narratives that are longer than the SAR narrative character limits. Financial institutions should, instead, focus the relevant narrative “as much as possible” and may include additional relevant information as an attachment to the SAR or note that it is available as supporting documentation.

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We hope this brief summary is useful. Please do not hesitate to contact us with any questions.



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