For the First Time, U.S. Treasury Department Uses Expansive Subpoena Power in Probe of Non-U.S. Bank

November 16, 2026

On October 21, 2026, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") announced its first-ever use of an expansive subpoena authority to compel an unnamed Greek bank to produce records as part of FinCEN's investigation into the bank's potential ties to Iran and its proxies.[1]

FinCEN subpoenaed the bank pursuant to 31 U.S.C. § 5318(k), a statute that authorizes the Treasury Department and Department of Justice ("DOJ") to subpoena any non-U.S. bank that has a U.S. correspondent account, regardless of whether the bank has a U.S. branch or other U.S. presence. The statute was significantly expanded by the Anti-Money Laundering Act of 2020 (the "AML Act") to empower the Treasury Department and DOJ to subpoena records relating to any account at the non-U.S. bank, whether or not related to the U.S. correspondent account.[2] A non-U.S. bank's failure to comply with the subpoena may result in civil penalties, a court order compelling compliance and/or termination of the U.S. correspondent relationship. Notably, the statute provides that secrecy or confidentiality laws in a bank's home jurisdiction may not be a sole basis for quashing or modifying the subpoena.

FinCEN's use of this tool against a European bank emphasizes the focus of U.S. authorities on activity by non-U.S. banks involving Iran and suggests the subpoena authority may be deployed more broadly in other investigations, bypassing longstanding processes for obtaining information across borders through mutual legal assistance treaties. It also highlights the risk that DOJ may begin using this subpoena authority, for example, in connection with money laundering, tax evasion, sanctions or corruption investigations.

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1 *See* FinCEN, "Operation Economic Outcast Targets Iran's Shadow Fleet Networks" (Oct. 21, 2026), *available* here.

2 *See* Debevoise In Depth, "Congress Passes Sweeping Anti-Money Laundering and Corporate Beneficial Ownership Law" (Jan. 4, 2021), *available* here.

Below, we describe the scope of this subpoena authority and highlight potential considerations for non-U.S. banks in light of the U.S. government's new willingness to use this tool.

Scope of Subpoena Authority

The expansive subpoena authority granted by the AML Act can be used against any non-U.S. bank that maintains a U.S. correspondent account and can seek records maintained outside the United States that are the subject of:

- an investigation of a violation of U.S. criminal law;
- an investigation of a violation of the Bank Secrecy Act ("BSA");
- a civil forfeiture action; or
- an investigation pursuant to Section 311 of the USA PATRIOT Act, which authorizes the Treasury Secretary to, among other actions, impose correspondent account or other restrictions targeting a foreign financial institution determined to be of primary money laundering concern.

The authority is not limited to investigations of the bank itself and can reach records related to the bank's customers.

Key elements of the statute include:

- **Correspondent account as jurisdictional trigger**. Any non-U.S. bank with a U.S. correspondent account can be subpoenaed, with no requirement that the requested records relate to the correspondent account. "Correspondent account" is defined broadly under FinCEN's regulations and includes any account maintained with a U.S. bank, broker-dealer or other financial institution to handle financial transactions related to the foreign bank. Thus, correspondent banking, securities trading and other accounts maintained with U.S. financial institutions could provide a sufficient nexus for assertion of the subpoena authority.
- **Limited grounds for challenge**. A non-U.S. bank may petition a U.S. district court before the return date of the subpoena to modify or quash the subpoena. However,

under the statute, a conflict between the subpoena and home country secrecy or confidentiality laws cannot, by itself, justify relief.[3]

- **Strict confidentiality**. No officer, director, partner, employee or shareholder of, or agent or attorney for, a non-U.S. bank may notify any account holder involved or any person named in the subpoena of its existence or contents. Violations may result in a civil penalty up to double the suspected criminal proceeds sent through the correspondent account of the bank in the related investigation.

- **Enforcement**. The Attorney General may seek a court order compelling compliance with a subpoena, enforceable as contempt of court. In addition, a noncompliant non-U.S. bank faces civil penalties of up to $50,000 per day, with additional judicial remedies available after 60 days of noncompliance, and funds in its U.S. correspondent account may be seized to satisfy those penalties. Separately, U.S. financial institutions must terminate their correspondent relationships with the non-U.S. bank within 10 business days of notice from the Treasury Secretary or the Attorney General requiring them to do so.

Considerations for Non-U.S. Banks

The subpoena in FinCEN's investigation into the Greek bank's potential Iran ties was issued as part of Treasury's Operation Economic Outcast, a whole-of-government campaign to sever the Iranian regime's financial lifelines.[4] Use of the subpoena authority illustrates the convergence of BSA investigative authority and sanctions enforcement.[5] Although § 5318(k) is not a sanctions authority, it can be used to gather evidence of sanctions evasion and related financial crimes, which could in turn inform sanctions designations by the Treasury Department's Office of Foreign Assets Control ("OFAC"), OFAC enforcement actions or FinCEN special measures under Section 311. Notably, Treasury did not identify which statutory predicate underlies the subpoena.

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[3] Neither this provision nor the expansive scope of the subpoena authority more broadly has yet faced a court challenge. It therefore remains to be seen whether and how non-U.S. banks will challenge its use and how courts will address any such challenges.

[4] *See* Debevoise In Depth, "Operation Economic Outcast: The U.S. Government Launches Economic War Against Iran," (Sept. 1, 2026), *available* here.

[5] *See*, *e.g.*, FinCEN's proposed Section 311 actions earlier this year against Swiss bank MBaer Merchant Bank AG and the United Arab Emirates operations of Egyptian bank Banque Misr for, among other things, their support for illicit Iran-related activity. Debevoise In Depth, "FinCEN Proposes Cutting Off Swiss Bank MBaer's U.S. Financial System Access" (Mar. 13, 2026), *available* here; Debevoise In Depth, "Operation Economic Outcast: The U.S. Government Launches Economic War Against Iran," *supra*.

In light of Treasury's demonstrated intent to use all available anti-money laundering and sanctions tools to address sanctions evasion, non-U.S. banks with U.S. correspondent relationships may wish to consider the following:

- **Assess correspondent relationships**. Identify U.S. correspondent relationships and recognize that maintaining even one qualifying account may expose the bank's records broadly, including those maintained outside the United States, to a U.S. subpoena.

- **Consider exposure to U.S.-sanctioned actors**. Review customer, counterparty and transactional activity to assess potential exposure to Iran, its proxies, OFAC-designated Iranian financial institutions and other actors and activities prohibited by U.S. sanctions, including indirect activity with no U.S. nexus. Consider whether existing due diligence and transaction monitoring adequately identify potentially higher-risk activity.

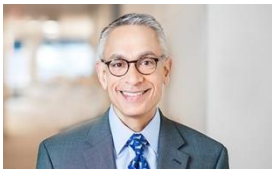
- **Review subpoena response procedures**. Assess and enhance, as necessary, processes for the prompt escalation of a § 5318(k) subpoena to relevant legal personnel, preservation of relevant records, compliance with statutory nondisclosure restrictions, investigation of implicated activity and consideration of potential grounds for challenge to position the bank to engage effectively with U.S. authorities in any § 5318(k) subpoena matter.

- **Assess cross-border records retrieval capabilities**. Consider whether the bank can promptly identify, retrieve and authenticate records held across jurisdictions, business lines and systems. Identify and consider measures to address obstacles to timely production, including reliance on third-party service providers or fragmented recordkeeping systems.

- **Evaluate conflicting legal obligations and plan for possible subpoenas**. Anticipate potential conflicts between U.S. production demands and home-country secrecy, confidentiality, data protection and blocking laws (including, for institutions in European Union member states, the General Data Protection Regulation's restrictions on transfers in response to third-country orders). Establish a process for promptly obtaining local and U.S. legal advice, engaging home-country authorities where appropriate and evaluating available relief under the U.S. statutory framework.

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Please do not hesitate to contact us with any questions.



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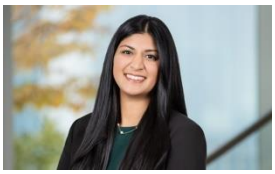
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