



USA Patriot Act 314(a)

Executive Summary

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EXECUTIVE SUMMARY

ESCHEATMENT REGULATIONS AND THE REQUIREMENTS FOR THE FINANCIAL INDUSTRY

Section 314(a) of the USA PATRIOT Act required the Treasury to implement regulations to facilitate communications between financial institutions and law enforcement authorities regarding suspected money launderers and terrorists. Under 314(a), all federal agency requests for information must be processed by the Treasury Department, Financial Crimes Enforcement Network (FinCEN) agency. Section 314(a) does provide a safe harbor provision to protect financial institutions when complying with 314(a) from privacy claims and/or violations such as those in the Gramm-Leach-Bliley Act.

Financial institutions will receive a 314(a) request from FinCEN about every two weeks in an electronic format or via facsimile transmission. Financial institutions must begin searching their records immediately upon receiving a 314(a) request. If a financial institution receives a 314(a) request during non-business hours or during the weekend, it must commence its search the next business day.

Financial institutions must complete their search of the 314(a) request and respond with any matches by no later than fourteen (14) calendar days after receiving the initial 314(a) request, if there are no 314(a) matches then a financial institution is not required to take action and report to FinCEN. Unless otherwise specified in the 314(a) request, financial institutions are required to search their current and previous customer records during the preceding twelve (12) month period. When conducting a 314(a) search, it's recommended that financial institutions review their entire customer portfolio e.g. (Checking, Savings, Safe Box, Trust and Loans) for possible matches.

Financial institutions are not required under 314(a) to close an account or take any other action with respect to an account or a transaction being a 314(a) subject list match. Furthermore, it is recommended under the guidelines that financial institutions should not warehouse a 314(a) subject list for the purpose of evaluating whether to open an account or to conduct a transaction, except where the 314(a) instructions state otherwise.

Under the regulation, financial institutions are not required to search payee information on checks, cashier's checks, money orders, traveler's checks issued by the financial institution or signature cards to determine whether a 314(a) subject is a signatory to an account, or reports filed with FinCEN such as Currency Transaction Reports (CTR) and Suspicious Active Reports (SAR), unless such a search is the only method to confirm whether a named subject maintains an account at a financial institution. The underpinnings of the regulation require financial institutions to focus their 314(a) searches to those customers in which they have or had a fiduciary relationship with and/or ongoing relationship. 314(a) requirements are distinctly different than OFAC requirements. Under 314(a) requirements, financial institutions are not required to close, block or freeze any account or terminate any relationship simply because a name appears on a 314(a) request, whereas with OFAC requirements, if a name appears on the OFAC list, a financial institution may be required block and freeze assets.

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**Certification for Purposes of Section 314(b) of the USA PATRIOT Act
and 31 CFR 103.110**

I hereby certify, on behalf of (insert name, address, and federal employer identification number (EIN) of financial institution or association of financial institutions) _____

_____ that:

(1) (i) The financial institution specified above is a "financial institution" as such term is defined in 31 CFR 103.110(a)(2), or (ii) The association specified above is an "association of financial institutions" as such term is defined in 31 CFR 103.110(a)(3) .

(2) The financial institution or association specified above intends, for a period of one (1) year beginning on the date of this certification, to engage in the sharing of information with other financial institutions or associations of financial institutions regarding individuals, entities, organizations, and countries, as permitted by section 314(b) of the USA PATRIOT Act of 2001 (Public Law 107-56) and the implementing regulations of the Department of the Treasury, Financial Crimes Enforcement Network (31 CFR 103.110).

(3) The financial institution or association of financial institutions specified above has established and will maintain adequate procedures to safeguard the security and confidentiality of such information.

(4) Information received by the above named financial institution or association pursuant to section 314(b) and 31 CFR 103.110 will not be used for any purpose other than as permitted by 31 CFR 103.110(c)(2).

(5) In the case of a financial institution, the primary federal regulator, if applicable, of the above named financial institution is _____.

(6) The following person may be contacted in connection with inquiries related to the information sharing under section 314(b) of the USA PATRIOT Act and 31 CFR 103.110:

NAME: _____

TITLE: _____

MAILING ADDRESS: _____

E-MAIL ADDRESS: _____

TELEPHONE NUMBER: _____

FACSIMILE NUMBER: _____

BY: _____

Name

Title

Executed on this _____ day of _____, 200____.