

# Information Memo

New York Stock Exchange, Inc.  
20 Broad Street  
New York, NY 10005

Member Firm Regulation



Number 02-58  
December 16, 2002

**ATTENTION:** COMPLIANCE, LEGAL, REGISTRATION AND TRAINING DEPARTMENTS

**TO:** ALL MEMBERS AND MEMBER ORGANIZATIONS

**SUBJECT:** TEMPORARY MORATORIUM ON INFORMATION REQUESTS UNDER SECTION 314 OF THE USA PATRIOT ACT

On November 19, 2002, the Department of the Treasury and its bureau the Financial Crimes Enforcement Network (FinCEN) advised associations representing major financial institutions of a temporary moratorium on new information requests as well as compliance with current information requests that have been recently issued under Section 314 of the USA PATRIOT Act of 2001. On November 26, 2002, the federal bank regulatory agencies issued a Joint Agency Notice (the "Notice") that addresses Section 314.<sup>1</sup>

## Background

Section 314 of the PATRIOT Act authorizes law enforcement to establish a mechanism to communicate with financial institutions to request information about suspected money laundering and terrorist financing. Section 314 also allows financial institutions to share information among themselves regarding these activities. On September 26, 2002, the final rule implementing Section 314 became effective and is now part of the Treasury Department's Bank Secrecy Act regulations.<sup>2</sup> Among other things, the final rule established a process through which law enforcement can communicate with financial institutions, including broker/dealers, in order to request information regarding those suspected of engaging in money laundering or terrorist activities so that any accounts and transactions involving these individuals or entities can be promptly located. On November 4, 2002, FinCEN began issuing information requests pursuant to this new authority.

## Temporary Moratorium on Information Requests<sup>3</sup>

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<sup>1</sup> See "Exhibit A" or <http://www.fincen.gov/314amoratorium.pdf>.

<sup>2</sup> 31 C.F.R. Part 103.

<sup>3</sup> After the September 11, 2001 terrorist attacks, the Federal Bureau of Investigation (FBI) and other law enforcement agencies established a list of individuals and entities about whom information was sought from financial institutions regarding transactions or relationships with the named entities or individuals. The list was designated as the "Control List." The Notice indicates that FinCEN has advised the federal financial regulators that the FBI will discontinue use of the "Control List" as a means of communicating information requests and will instead rely on the Section 314(a) process in the future.

Since FinCEN began issuing these information requests (as described more fully in the bank regulators' Notice), some financial institutions have advised their regulators and FinCEN of a number of logistical issues and questions regarding compliance with the requests. In an effort to respond to and resolve these issues and concerns and to ensure that the most effective communication systems are in place between the government and the financial institutions, FinCEN has issued a temporary moratorium on new information requests and on responding to prior requests. The Exchange understands that during the moratorium, FinCEN, in consultation with the federal financial regulators, will develop new guidance concerning future requests. Firms will be advised of both the lifting of the brief moratorium and the new guidance regarding the Section 314 information request process. Members and member organizations should monitor the Treasury and FinCEN websites for this guidance.

FinCEN has advised the federal financial regulators that, in the event of a threat to national security or other emergency, it reserves the right to take necessary steps, including immediate reinstatement of the Section 314 information request process.

### **Anti-Money Laundering Compliance Officer Contact Information**

Up-to-date contact information is essential to ensure that appropriate persons receive important communications including the information requests made on behalf of law enforcement agencies by FinCEN.

Accordingly, members and member organizations are reminded of their obligation, per NYSE Rule 445 ("Anti-Money Laundering Compliance Program"), to provide to the Exchange a designated Contact Person or Persons primarily responsible for their AML Program.<sup>4</sup> AML Contact Persons are to be identified to the Exchange by name, title, mailing address, e-mail address, telephone number, and facsimile number. Further, members and member organizations are reminded of their ongoing obligation to maintain a current Membership Profile via updates submitted to the Exchange through the Electronic Filing Platform.<sup>5</sup>

Questions regarding this Memo may be directed to Stephen Kasprzak at (212) 656-5226.

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Salvatore Pallante  
Executive Vice President

Attachments

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<sup>4</sup> See NYSE Information Memo Number 02-21 dated May 6, 2002.

<sup>5</sup> See NYSE Information Memo Number 02-41 dated August 30, 2002.