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FinCEN Proposal Draws Attention to Human Traffickers

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Financial institutions are increasingly able to gather and share information on transactions and clients allegedly tied to human trafficking operations, but still largely rely on requests for specific data from regulators and investigators to successfully screen for the crime, say sources.

Human trafficking, which includes labor exploitation, sexual slavery, organ harvesting, forced participation in crimes and other gross violations of human rights, is estimated to be the fastest-growing form of criminal enterprise, claiming more than 20 million victims worldwide and generating $32 billion in annual revenue, according to figures cited by U.S. officials.

Despite its prevalence, most lenders remain unlikely to identify transactional patterns connected with the crime on their own because of how easily they blend with seemingly benign, unremarkable activity, such as payments at nail salons, truck stops and properly licensed massage parlors, Jim Richards, Bank Secrecy Act officer at Wells Fargo & Co. said.

The most effective instances of transfers tied to human trafficking operations being pinpointed have come from law enforcement "pinging" financial institutions for specific information through the Patriot Act 314(a) program, followed by private-sector sharing of targeted data through the 314(b) program, Richards said.

U.S. regulators drew more attention to the issue this month, when the Financial Crimes Enforcement Network, or FinCEN, proposed adding a new box to the suspicious activity reporting form that could be checked to indicate suspicion of human trafficking.

Compliance officers to date have most often disclosed their suspicions of human trafficking by checking "other" in a suspicious activity report to FinCEN, then using the narrative portion of the form to describe the reasons behind their decision to notify the bureau.

FinCEN said this month that the new "human trafficking" box would not carry a regulatory expectation that financial institutions begin screening specifically for the crime.

"Anytime you have an addition to the SAR form you wonder if there's new regulatory burden, but in this instance I think it really just helps facilitate a better description," said Blake Goodsell, an attorney with Bradley Arant Boult Cummings LLP in Birmingham, Alabama.

The proposal builds on a 2014 advisory in which the bureau called attention to transactional patterns suggestive of human trafficking, including multiple small wire transfers to a common beneficiary along the U.S. border with Mexico, unusual currency deposits followed by wire transfers to countries with large migrant populations, and the use of "funnel accounts."

“No one transaction or red flag by itself is a clear indicator of human smuggling or trafficking,” FinCEN said in the advisory, which identified several stages in human smuggling and human trafficking operations where persons perpetrating the crimes most often interact with the U.S. financial system.

Global financial institutions sought to improve their detection of human trafficking long before issuance of the advisories. In 2013, several U.S.-headquartered banks met with Manhattan District Attorney Cyrus Vance to discuss their role in combating the crime.

Years earlier, after 2009, JPMorgan Chase & Co. began building pattern-based transaction-monitoring protocols specifically geared towards human trafficking that generated numerous case leads for law enforcement, Louise Shelley, director of the terrorism, transnational crime and corruption center at George Mason University said.

Spokespersons for JPMorgan Chase did not respond to requests for comment.

The transaction-monitoring software typically procured by smaller and midsized lenders does little to screen for the crime, leaving most to rely solely on “case studies” of previous human-trafficking operations, said a chief compliance officer for a Midwest-based a credit union.

“We are wholly undertrained as an industry globally on human trafficking and human smuggling,” said the officer, who asked not to be named. “Unless you’re [doing] sustained training on red flags, most financial institutions won’t pick up on it. They could read an advisory until they’re blue in the face.”