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Jeremy Paner Discusses Proposed FinCEN Rule That Could ‘Guide Financial Crimes Investigations for Years’

What are the ramifications of FinCEN’s latest proposed rule for global financial institutions?

Articles & Press

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Highlights

- Jeremy Paner discussed FinCEN’s proposed rule against M&B Merchant Bank AG that signals a rare use of U.S. Treasury authority against a European financial institution in WorldECR.
- The action could serve as a warning to banks in major European financial centers to reassess higher-risk client relationships and compliance controls.
- Allegations tied to Russian money laundering may foreshadow further enforcement activity, including potential OFAC penalties.

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Jeremy Paner discussed a proposed Financial Crimes Enforcement Network (FinCEN) rule that could have wide ramifications and “guide financial crimes investigations for years” with WorldECR, a journal on export controls and sanctions from Dow Jones.

On Feb. 26, FinCEN proposed a rule that would sever access to the U.S. financial system for M&B Merchant Bank AG, due to its alleged financial support of “illicit actors linked to Russia and Iran” by the U.S. Treasury.

FinCEN claims that the bank has profited from customers engaging in money laundering and maintained “a higher-risk customer base,” without implementing mitigating controls that would prohibit such customers from engaging in illicit activities, and that M&B, in some cases, deliberately acted to facilitate those activities.

In the article, Paner says that the proposed action should serve as a “warning shot” to financial institutions in European financial centers, and that organizations should review their relationships with M&B.

“FinCEN has issued similar actions against three European Banks (two banks in Latvia and an Andorran bank), but [it] has never issued a proposed rule against a European financial institution in a fully developed financial centre,” Paner

said. "My past warnings to European banks about this particular US Treasury authority, colloquially referred to as a 'death sentence,' were generally met with disbelief over the years.

"I can attest that the prior lax regulatory environments in Latvia and Andorra gave many banks a sense of ease that US Treasury would not perceive their banks in same light as a Latvian or Andorran bank," he continued.

Paner also noted that the proposed rule is based in part on allegations related to Russian money laundering, and that this could indicate that the Office of Foreign Assets Control (OFAC) may follow suit with additional Russia-related sanctions.

"I understand that OFAC has Russia-related monetary penalties teed up, but I have otherwise seen no indication that it plans on imposing additional sanctions on Russia," Paner said.

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Jeremy P. Paner

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