

MEMO# 20973

March 21, 2007

FinCEN Adopts Rule Imposing "Special Measures" Against Banco Delta Asia as a Financial Institution of Primary Money Laundering Concern

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TO: AML COMPLIANCE WORKING GROUP No. 2-07 RE: FINCEN ADOPTS RULE IMPOSING
"SPECIAL MEASURES" AGAINST BANCO DELTA ASIA AS A FINANCIAL INSTITUTION OF
PRIMARY MONEY LAUNDERING CONCERN

The Financial Crimes Enforcement Network adopted a final rule last week imposing a special measure against Banco Delta Asia (including its subsidiaries) as a financial institution of primary money laundering concern. [\[1\]](#) The rule, adopted pursuant to Section 311 of the USA PATRIOT Act, requires mutual funds and other U.S. financial institutions to terminate any correspondent account that is opened or maintained in the United States for or on behalf of Banco Delta Asia. The new rule takes effect on April 18, 2007.

The new rule also requires mutual funds and other covered financial institutions to apply due diligence to their correspondent accounts that is "reasonably designed to guard against their indirect use" by Banco Delta Asia. To satisfy the due diligence requirement, a mutual fund must, at a minimum, (1) notify correspondent account holders that the account may not be used to provide Banco Delta Asia with access to the mutual fund, and (2) take reasonable steps to identify any indirect use of its correspondent accounts by Banco Delta Asia, to the extent that such indirect use can be determined from transactional records maintained in the mutual fund's normal course of business. If the mutual fund obtains knowledge that a correspondent account is being used by the foreign bank to provide indirect access to Banco Delta Asia, the mutual fund must take "all appropriate steps" to

prevent such indirect access, including terminating the account within a “commercially reasonable” period of time.

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endnotes

[1] Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Imposition of a Special Measure Against Banco Delta Asia, Including Its Subsidiaries Delta Asia Credit Limited and Delta Asia Insurance Limited, as a Financial Institution of Primary Money Laundering Concern, 72 Fed. Reg. 12730 (Mar. 19, 2007), available at <http://edocket.access.gpo.gov/2007/pdf/07-1313.pdf>. FinCEN previously designated Banco Delta Asia as a financial institution of primary money laundering concern and proposed a rule imposing sanctions in September 2005. See ICI [Memorandum](#) to AML Compliance Working Group No. 8-05 [19198], dated September 27, 2005.

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