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## FinCEN Report Indicates Greater Scrutiny of Bitcoin Related Transactions

On July 18, 2014, the Financial Crimes Enforcement Network (FinCEN) published the first issue of SAR Stats, a successor to the FinCEN publication *By The Numbers*. *SAR Stats* examines data generated from the more than 1.3 million individual Suspicious Activity Reports (SARs) filed by the financial industry, using the recently implemented unified Form 111.[1]

FinCEN highlighted Bitcoin related activity as a key emerging trend, stating that SAR data is crucial to assessing Bitcoin transactions. Bitcoin is a medium of exchange known as a cryptocurrency. Bitcoin was the first cryptocurrency to be created in 2009 and remains the most popular, but numerous other cryptocurrencies have also been created, including Litecoin and Dogecoin. Based on principles of cryptography, this virtual currency is used to conduct transactions and issue new currency through a secure computer network -- without a central administrator such as a government. FinCEN emphasized the need for SAR filers to understand and flag the use of cryptocurrencies as suspicious transactions.

FinCEN's focus on Bitcoin suggests that cryptocurrencies are subject to increased scrutiny by the over 350 agencies (including federal, state and local law enforcement and regulatory organizations) that have access to SAR data via FinCEN's portal. Such increased scrutiny no doubt arises

from Bitcoin's facilitation of anonymous transactions. This characteristic, in combination with their speed and global reach, make cryptocurrencies especially attractive to those engaged in illicit transactions.

Although most SAR filers do not engage in the Bitcoin economy by either accepting Bitcoin or allowing transactions in Bitcoin, FinCEN considers SARs filed by the financial industry to be a potential source of valuable information related to Bitcoin addresses, account ownership, and other identifying information; that is, the sort of information that can pierce the shield of anonymity that cryptocurrencies provide to criminal actors. Specifically, FinCEN is mindful of the "unique vantage point" of SAR filers that are able to identify financial transactions -- such as ACH or wire transfers to or from known Bitcoin dealers or users -- relating to the exchange of Bitcoins and other types of cryptocurrency for government-issued legal tender. FinCEN noted, for example, that depository institutions and broker/dealers might observe high value deposits originating from virtual currency exchangers after a rapid rise in the value of Bitcoin or similar transactions that would indicate speculation or arbitrage in Bitcoin. While such speculation is not itself a criminal activity, FinCEN observes that it shares a "transaction footprint with other activities that might be suspicious such as High Yield Investment Programs." SARS filers might also see multiple cash deposits

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followed by an ACH or wire transfer to a known virtual currency exchange which could identify individuals or entities acting as dealers or unregistered Money Services Businesses (MSBs) for cryptocurrencies.

FinCEN's clear interest in using SARs to identify individuals engaged in Bitcoin related transactions is further highlighted by its statement that when reporting suspicious activity related to Bitcoin transactions, "information on users of cryptocurrency (even when their participation in the transaction is not considered suspicious) is very useful for the analysis of the narrative ... as some of these users may be engaged in illicit marketplace activity that is indicated in other corroborating data." For this reason, we expect FinCEN's attention to the reporting of activities related to such Bitcoin transactions only to increase in the future.

*[1] This publication is the successor publication to The SAR Activity Review; By The Numbers, which examined the information contained in the prior legacy SAR forms directed at specific types of institutions. The new report coincides with FinCEN's designation of 2012-2013 as the new baseline year for reporting SAR data based on the new form.*

*This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.*