



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 19 2012

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Fraud Enforcement and Recovery Act of 2009 (FERA)¹ requires the Department of Justice to report to the House and Senate Committees on the Judiciary annually on certain activities under the Act. This letter constitutes the Department's report for the period from May 2010 to May 2011. An identical letter has been sent to the Chairman of the House Judiciary Committee.

FERA included a Sense of Congress provision expressing the view that federal prosecutors should be required to obtain approval from senior Department officials before they bring certain types of money laundering charges, in particular, the narrow categories of money laundering charges that implicate the "merger" concerns that informed the Sense of Congress provision. Accordingly, in the wake of FERA, the Assistant Attorney General of the Criminal Division established procedures requiring federal prosecutors to consult with the Department's Asset Forfeiture and Money Laundering Section (AFMLS) prior to filing an indictment or complaint that includes a money laundering offense of the type described in FERA.²

The Department is required, for the first five years after the enactment of FERA, to report annually to the House and Senate Committees on the Judiciary information relating to the money laundering charges covered by that statute. In particular, the Department has been asked to provide: (i) the number of prosecutions that were undertaken after approval by an appropriate official during the reporting year (May to May), (ii) the number of prosecutions that were undertaken during the reporting year without prior approval, and (iii) the number of times during the reporting year in which the Department denied approval for a prosecution.

During the period between May 2010 and May 2011, federal prosecutors consulted with AFMLS regarding money laundering charging issues in over a hundred cases. In every case, the prosecutors eventually chose not to pursue those charges falling within the FERA parameters, thereby obviating the need for approval from a Department official. Additionally,

¹ Pub. L. 111-21, May 20, 2009, 123 Stat. 1617.

² Section 9-105.330 of the *United States Attorneys' Manual*.

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to our knowledge, no prosecutions of the money laundering offenses covered by FERA were undertaken without obtaining prior approval, nor were there any instances in which a request to prosecute such a money laundering offense was denied.

We trust this information is helpful. Please do not hesitate to contact this office if we may be of assistance with this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Weich', written in a cursive style.

Ronald Weich
Assistant Attorney General

cc: The Honorable Charles E. Grassley
Ranking Minority Member