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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506-AB23

Financial Crimes Enforcement Network; Withdrawal of Finding and Notice of Proposed Rulemaking Regarding Liberty Reserve S.A.

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Withdrawal of finding and notice of proposed rulemaking.

SUMMARY: This document withdraws FinCEN’s finding that Liberty Reserve S.A. (“Liberty Reserve”) is a financial institution of primary money laundering concern and the related notice of proposed rulemaking seeking to impose the fifth special measure regarding Liberty Reserve, pursuant to section 311 of the USA PATRIOT Act (“Section 311”). Because of material subsequent developments that have mitigated the money laundering risks associated with Liberty Reserve, FinCEN has determined that Liberty Reserve is no longer a primary money laundering concern that warrants the implementation of a special measure under Section 311.

DATES: The finding and notice of proposed rulemaking are withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767-2825.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the “USA PATRIOT Act”). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR chapter X. The authority of the Secretary of the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (“Section 311”) grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take certain “special measures” to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. To that end, special measures one through four, codified at 31 U.S.C. 5318A(b)(1) through (4), impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C.

5318A(b)(5), allows the Director to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts for the identified institution by U.S. financial institutions.

II. The Finding and Notice of Proposed Rulemaking

A. The Finding and Notice of Proposed Rulemaking

Based upon review and analysis of relevant information, consultations with relevant Federal agencies and departments, and after consideration of the factors enumerated in Section 311, the Director of FinCEN found that reasonable grounds existed for concluding that Liberty Reserve S.A. (“Liberty Reserve”) was a financial institution of primary money laundering concern. FinCEN published a proposed rule proposing the imposition of the fifth special measure on June 6, 2013, pursuant to the authority under 31 U.S.C. 5318A.¹

B. Subsequent Developments

Since FinCEN’s finding and related NPRM regarding Liberty Reserve, material facts regarding the circumstances of the proposed rulemaking have changed. Liberty Reserve was a web-based money transfer system when FinCEN published notice of its finding and NPRM on June 6, 2013. The Department of Justice announced on May 28, 2013 that it had charged seven of Liberty Reserve’s principals and employees with money-laundering, seized five domain names, including “LibertyReserve.com,” and seized or restricted the activity of 45 bank accounts related to Liberty Reserve. In light of these actions, Liberty Reserve has since ceased to function as a financial institution.

¹ See 78 FR 34008 (June 6, 2013) (RIN 1506-AB23).

III. Withdrawal of the Finding and NPRM

For the reasons set forth above, FinCEN hereby withdraws its finding that Liberty Reserve is of primary money laundering concern and the related NPRM published on June 6, 2013, seeking to impose the fifth special measure regarding Liberty Reserve.

Jamal El-Hindi
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Financial Crimes Enforcement Network

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