

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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April 24, 2024

The Honorable Janet Yellen  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Yellen:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are continuing to conduct oversight of financial surveillance of American citizens, including the disclosure of private financial records to federal authorities without legal process. As part of its oversight, the Committee and Select Subcommittee received testimony indicating that various financial institutions, in addition to Bank of America (BoA), filed Suspicious Activity Reports (SARs) in the weeks following January 6, 2021, at the request of and in coordination with the Financial Crimes Enforcement Network (FinCEN) and the Federal Bureau of Investigation (FBI).<sup>1</sup> To assist with our oversight, we request that you provide us with these SARs and any related filings, including the supporting documentation.

On February 16, 2024, we requested that you produce a SAR filed by BoA on January 17, 2021.<sup>2</sup> On March 28, 2024, the Treasury Department (Department) made the SAR available to the Committee for an *in camera* review.<sup>3</sup> The Committee's and Select Subcommittee's review of that SAR revealed that BoA shared the information of 211 individuals with federal law enforcement according to certain "thresholds" provided by the FBI and included references to "supporting documentation" reflecting the customer relationships identified by the SAR.<sup>4</sup> The Department stated that it was not in possession of the supporting documentation and, therefore, Committee staff could not review its details.

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<sup>1</sup> See Transcribed Interview of Mr. Peter Sullivan at 78-79 (Apr. 9, 2024); see also Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Janet Yellen, Sec'y, U.S. Dep't of the Treasury (Feb. 16, 2024).

<sup>2</sup> See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Janet Yellen, Sec'y, U.S. Dep't of the Treasury (Feb. 16, 2024).

<sup>3</sup> See Letter from Corey Tellez, Acting Assistant Sec'y, Office of Legislative Affairs, U.S. Dep't of the Treasury, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 28, 2024).

<sup>4</sup> See Transcribed Interview of Mr. Peter Sullivan at 34, 37. (Apr. 9, 2024); see also BofA-HJUD-00000002.

On April 9, 2024, the Committee conducted a transcribed interview with the FBI's former financial sector liaison, Peter Sullivan.<sup>5</sup> Mr. Sullivan testified that following the events of January 6, 2021, he worked with FinCEN and BoA to "narrow" the "focus" of financial institutions towards specific "fact-based patterns" used to create transaction "thresholds."<sup>6</sup> Mr. Sullivan subsequently emailed these thresholds to BoA with the "expectation" that the FBI would "review any information that met their thresholds for sharing the information back to law enforcement."<sup>7</sup> Indeed, after BoA filed the January 2021 SAR with the Department, a BoA executive also sent the filing directly to Mr. Sullivan who subsequently reviewed the SAR and its supporting documentation, which identified 211 individuals' information.<sup>8</sup>

Following his review of the SAR materials, Mr. Sullivan asked BoA to identify customers that had also made "weapons-related transactions" after January 6, 2021, and BoA identified four individuals.<sup>9</sup> Based on these additional criteria, the FBI conducted "criminal background queries" into these individuals and sent "four Guardians out to three field offices" for further investigation.<sup>10</sup> The Guardian Program is a process in which the FBI shares information with partnered law enforcement entities to track potential threats and suspicious activity.<sup>11</sup> In this case, once the Guardian assessments were completed and shared, the BoA SAR and its supporting documentation were subsequently uploaded to the "[Washington Field Office] case file" and the office then sent out "a number of leads."<sup>12</sup> However, according to Steve Jensen, the then-Section Chief of the FBI's Domestic Terrorism Operations Section, he "pull[ed]" the "leads" back because they "lacked allegations of federal criminal conduct."<sup>13</sup> FBI Director Chris Wray similarly stated that this information was later "recalled."<sup>14</sup>

BoA was not the only financial institution that responded to the government's request for Americans' private financial data.<sup>15</sup> Mr. Sullivan testified that executives at other financial institutions also sent similar SAR filings directly to him, relying on the "same fact-based patterns" created by the FBI and FinCEN.<sup>16</sup> To that end, FinCEN "created a tag" to "group" all SARs related to the events that occurred at the Capitol on January 6, 2021.<sup>17</sup> Given this coordination, the Committee and Select Subcommittee are concerned that the federal government, through the FBI and FinCEN, sent similar or identical thresholds to other financial institutions that manipulated the SAR filing process to elicit the information and transaction history of individuals without any allegation of federal criminal conduct. This kind of

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<sup>5</sup> See generally Transcribed Interview with Mr. Peter Sullivan (Apr. 9, 2024).

<sup>6</sup> See Transcribed Interview with Mr. Peter Sullivan at 32 (Apr. 9, 2024).

<sup>7</sup> See Transcribed Interview with Mr. Peter Sullivan at 29, 32, 90 (Apr. 9, 2024); see also BofA-HJUD-00000225.

<sup>8</sup> See Transcribed Interview of Mr. Peter Sullivan at 34, 78 (Apr. 9, 2024); see also BofA-HJUD-00000227.

<sup>9</sup> See Transcribed Interview of Mr. Peter Sullivan at 37, 38. (Apr. 9, 2024).

<sup>10</sup> See *id.*

<sup>11</sup> See FEDERAL BUREAU OF INVESTIGATION, PRIVACY IMPACT ASSESSMENT FOR THE EGUARDIAN SYSTEM (2013); see also Transcribed Interview of Mr. Peter Sullivan at 38. (Apr. 9, 2024).

<sup>12</sup> See Transcribed Interview of Mr. Peter Sullivan at 38, 107. (Apr. 9, 2024).

<sup>13</sup> Transcribed Interview of Mr. Steven Jensen at 149-50, 152 (May 19, 2023).

<sup>14</sup> See *Oversight of the Federal Bureau of Investigation Before the H. Comm. on the Judiciary*, 118th Cong. (2023).

<sup>15</sup> See Transcribed Interview of Mr. Peter Sullivan at 78, 80. (Apr. 9, 2024).

<sup>16</sup> *Id.*

<sup>17</sup> See Transcribed Interview of Mr. Peter Sullivan at 78, 94. (Apr. 9, 2024); see also TFC000003.

warrantless financial surveillance raises serious concerns about the federal government's respect for Americans' privacy and fundamental civil liberties.

Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of matters involving civil liberties and criminal law to inform potential legislative reforms.<sup>18</sup> In addition, H. Res. 12 authorized the Judiciary Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of the United States."<sup>19</sup> H. Res. 12 also authorized the Select Subcommittee to investigate "how executive branch agencies work with, obtain information from, and provide information to the private sector, non-profit entities, or other government agencies to facilitate action against American citizens."<sup>20</sup>

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."<sup>21</sup> These potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities collect or receive private customer data, legislation to enhance the protections of civil liberties for customers of financial institutions, or legislation to prevent the misuse of Americans' private financial information. The documents we are requesting from the Treasury Department are necessary to inform such potential legislation.

Accordingly, to assist with the Committee's and Select Subcommittee's investigation, please produce the following documents and information:

1. All Bank Secrecy Act filings, including SARs and supporting documentation, that reference "FIN-2021-DE01" and that identify more than one individual; and
2. All documents and communications between or among FinCEN, the FBI, or any other federal entity referring or relating to Bank Secrecy Act filings submitted with the tag "FIN-2021-DE01."

We request that you produce these documents as soon as possible but no later than 5:00 p.m. on May 8, 2024.

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<sup>18</sup> Rules of the U.S. House of Representatives, R. X (2023) (118<sup>th</sup> Cong.).

<sup>19</sup> H. Res. 12 § 1(b)(1).

<sup>20</sup> *Id.*

<sup>21</sup> *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).

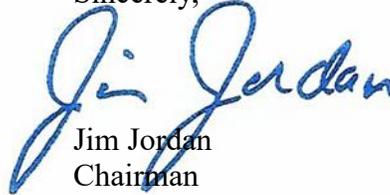
The Honorable Janet L. Yellen

April 24, 2024

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Please contact Committee staff at (202) 225-6906 if you have any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member