

# KIRKLAND ALERT

July 11, 2013

## Creation of New Financial Intelligence Unit at the New York District Attorney's Office

New York County District Attorney Cyrus Vance recently announced the creation of a new Financial Intelligence Unit in his office to enhance the capability of his prosecutors to investigate and prosecute a variety of financial crimes, including white collar matters, money laundering and illegal financial transactions. Specifically, the unit will employ a cross-agency team of 20 specially trained financial analysts who will review and track banking, regulatory, law enforcement and open-source data to discern trends and uncover financial improprieties and misconduct that might not otherwise be detected through normal regulatory channels. The Financial Intelligence Unit will expand upon the district attorney's coordination with federal agencies: two of the financial analysts will be members of the U.S. Secret Service, and the unit will work closely with the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS).

The formation of a dedicated Financial Intelligence Unit within the district attorney's Major Economic Crimes Bureau signals a renewed commitment by District Attorney Vance to the investigation and prosecution of complex, large-scale financial crimes that might normally be considered to fall within the purview of federal prosecutors or regulatory agencies. Given Manhattan's unique status as an international banking capital, the New York County District Attorney's Office has long ventured into the prosecution of crimes that would typically be handled by U.S. attorney's offices in other cities. But with the formation of a dedicated Financial Intelligence Unit that will work closely with and even include in its ranks active federal law enforcement officials, District Attorney Vance has demonstrated an intent to step up his office's efforts in the white collar space and increase his office's profile in the financial sector.

### **Expected Activities of the New Financial Intelligence Unit**

The Financial Intelligence Unit will comprise 20 specially trained financial analysts — including two active members of the U.S. Secret Service — who will work as investigators in the Major Economic Crimes Bureau, which currently handles the bulk of financial prosecutions for the office. These forensic financial analysts will proactively review and track banking and financial data culled from a variety of public, law enforcement and regulatory sources, including suspicious activity reports (SARs) filed by banking institutions under the Bank Secrecy Act, to trace suspicious funds, identify potential criminal patterns and develop targets. Where potential cases can be built from the data reviewed, the files will be referred to prosecutors in the Major Economic Crimes Bureau for further case assessment and development.

**The formation of a dedicated Financial Intelligence Unit within the district attorney's Major Economic Crimes Bureau signals a renewed commitment by District Attorney Vance to the investigation and prosecution of complex, large-scale financial crimes.**

An important feature of the Financial Intelligence Unit will be its wide breadth across jurisdictions and law enforcement agencies. It represents a joint effort between the district attorney's office with the FBI, the IRS' Criminal Investigation Bureau and the U.S. Secret Service. Moreover, while the district attorney's office takes the position that it has far-reaching jurisdiction over any case that touches the New York banking system, District Attorney Vance has also expressed his office's willingness to refer cases to other law enforcement agencies, including other local district attorneys' offices, where a potential financial crime is uncovered outside of his office's jurisdiction.

The Financial Intelligence Unit's work will not be limited to identifying financial crimes, but will also include enhancing the financial evidence that could be useful in the prosecution of other types of crime, including human trafficking, violent criminal enterprises, exploitation of immigrant communities and cybercrime. In short, the creation of the unit reflects an effort on the part of the district attorney's office to expand its overall competency and develop a particular expertise in the area of forensic financial analysis.

### **Likely Significance of Financial Intelligence Unit for District Attorney's White Collar Priorities**

District Attorney Vance has continued the work of his predecessor, Robert Morgenthau, in aggressively prosecuting white collar crime, including banking crime. But Vance's creation of such a large, dedicated Financial Intelligence Unit may auger a new era of even more aggressive white collar prosecution by the district attorney. Indeed, Vance — settling into his role now that he is completing his first term and running for a second term unopposed — has repeatedly touted his office's commitment to aggressively prosecuting financial crimes, including in areas with major international implications and economic consequences for the institutions involved.

In this regard, in the last four years, the New York district attorney's office has entered into deferred prosecution agreements with six different global banks, amassing fines exceeding \$3 billion, in so-called "bank-stripping cases" where banks were accused of concealing the source of wire transfers involving nations subject to international sanctions.

These prosecutions of large, multinational financial institutions show how the district attorney's jurisdiction over the New York banking center can provide it with immense power to investigate and potentially prosecute even the largest international companies for alleged wrong-doing of which their U.S. executives might not even be aware. Interestingly, in some recent prosecutions, the U.S. affiliates of relevant major international banks were not even alleged to have been complicit or aware of the illegal activity undertaken by their international affiliates, yet the passing of funds through New York City conferred sufficient jurisdiction for the New York County District Attorney's Office to institute major investigations of these companies.

**In the last four years, the New York district attorney's office has entered into deferred prosecution agreements with six different global banks, amassing fines exceeding \$3 billion.**

In addition to this recent heightened focus on investigating and prosecuting the illegal movement of funds in violation of international sanctions, the district attorney's office has been bringing cases in more traditional white collar areas, including putative money laundering, securities fraud/Ponzi schemes, mortgage fraud and insurance fraud, as well as branching out and developing its competency in a variety of newer areas, such as art thefts and cybercrime.

## Conclusion

The creation of a Financial Intelligence Unit at the New York County District Attorney's Office is a development worth monitoring in the coming months and years. Based on the office's recent activities and public statements made by District Attorney Vance in a variety of forums, it seems that the office is poised, and now resourced, to redouble its commitment to prosecuting white collar crime. Financial and other international institutions are clearly within the scope of the new unit's efforts, and may face enhanced scrutiny in New York, even for largely foreign conduct that has only a tangential nexus with Manhattan.

---

If you have any questions about the matters addressed in this *Kirkland Alert*, please contact the following Kirkland authors or your regular Kirkland contact.

Mark Filip, P.C.  
Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, IL 60654  
[www.kirkland.com/mfilip](http://www.kirkland.com/mfilip)  
+1 (312) 862-2192

Michael J. Garcia  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
[www.kirkland.com/mgarcia](http://www.kirkland.com/mgarcia)  
+1 (212) 446-4810

Henry J. DePippo  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
[www.kirkland.com/hdepippo](http://www.kirkland.com/hdepippo)  
+1 (212) 446-4780

Andrew M. Genser  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
[www.kirkland.com/agenser](http://www.kirkland.com/agenser)  
+1 (212) 446-4809

Sandra Musumeci  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
[www.kirkland.com/smusumeci](http://www.kirkland.com/smusumeci)  
+1 (212) 446-4956

Michael C. Keats  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
[www.kirkland.com/mkeats](http://www.kirkland.com/mkeats)  
+1 (212) 446-4804

W. Neil Eggleston  
Kirkland & Ellis LLP  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
[www.kirkland.com/neggleston](http://www.kirkland.com/neggleston)  
+1 (202) 879-5016

Charles J. Clark  
Kirkland & Ellis LLP  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
[www.kirkland.com/cjclark](http://www.kirkland.com/cjclark)  
+1 (202) 879-5064

Robert W. Pommer III  
Kirkland & Ellis LLP  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
[www.kirkland.com/rpommer](http://www.kirkland.com/rpommer)  
+1 (202) 879-5950

*This communication is distributed with the understanding that the author, publisher and distributor of this communication are not rendering legal, accounting, or other professional advice or opinions on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use. Pursuant to applicable rules of professional conduct, this communication may constitute Attorney Advertising.*