

The Department of Justice Office of the Inspector General (OIG) today released an audit report examining the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) use of income-generating, undercover operations, also known as churning investigations, between February 2006 and June 2011. Overall, the OIG's review found a serious lack of oversight by ATF, misuse of proceeds, and failures to account properly for cigarettes and assets purchased during churning investigations.

Using statutory authority, churning investigations are able to use funding generated from illicit transactions to offset expenses incurred by these investigations, rather than relying on appropriated funds. The ATF has only used this authority in investigating tobacco diversion cases that involve efforts to evade state, local, or federal tobacco taxes.

ATF and the Department of Justice approved 35 churning investigations during the period covered by the audit. However, the OIG found that none of these requests fully met ATF's policy requirements for approval, including that none were reviewed by ATF's Undercover Review Committee prior to submission to the Department, as was required by ATF policy. Indeed, we were told that ATF's Undercover Review Committee did not meet between February 2005 and January 2012. Additionally, we found that 33 of the 35 requests did not include critical information in the request as required by ATF policy.

The OIG identified one investigation that did not receive any approval to operate as a churning investigation. For that unapproved churning investigation, the audit found that approximately \$15 million of cigarettes were sold in an 18-month period, and a confidential informant for the investigation was allowed to keep more than \$4.9 million of the \$5.2 million of gross profit generated without submitting adequate documentation supporting his expenses.

The OIG also reviewed 20 of the 36 churning investigations conducted by ATF during the period of our audit to determine whether there was proper oversight and management of the churning investigations at the Headquarters and Field Division levels. Together, these 20 investigations reported total revenues of nearly \$162 million. The OIG audit found that ATF policies in place at the time did not clearly establish the permissible uses of churning proceeds. As a result, expenditures that appeared improper, unnecessary, and unreasonable were made based on individual agent and supervisor discretion. The review also found a significant lack of oversight and controls to ensure that cash, cigarettes, equipment, and other assets used in churning investigations were accurately tracked, properly safeguarded, and protected from misuse. The OIG found that out of the more than 9.9 million cartons of cigarettes (or 420 million cigarettes) that were purchased for the 20 investigations reviewed, the disposition of 2.1 million cartons of cigarettes, with a retail value of more than \$127 million, could not be reconciled.

The OIG audit made 16 recommendations to ATF and 1 recommendation to the Office of the Deputy Attorney General to assist them in ensuring that churning investigations are properly authorized and managed. ATF did not specifically state whether it agreed or disagreed with our recommendations; however, in its response to the report, ATF stated that two policies issued in 2013 addressed 15 of the 16 recommendations made to the ATF. The Office of the Deputy Attorney General agreed with our remaining recommendation.

The report can be found on the OIG's website at: <http://www.justice.gov/oig/reports/2013/a1336.pdf>.