



Department of the Treasury Financial Crimes Enforcement Network

GUIDANCE ON INTERPRETING FINANCIAL INSTITUTION POLICIES IN RELATION TO RECORDKEEPING REQUIREMENTS UNDER 31 C.F.R. §103.29

The Financial Crimes Enforcement Network (FinCEN) receives numerous questions concerning compliance with the Bank Secrecy Act (BSA) recordkeeping requirement found in 31 C.F.R. §103.29. This section requires financial institutions to verify a customer's identity and retain records of certain information prior to issuing or selling bank checks and drafts, cashier's checks, money orders and traveler's checks when purchased with currency in amounts between \$3,000 and \$10,000 inclusive.

Many depository institutions (banks, thrifts, credit unions, etc) have implemented a policy requiring customers who are deposit account holders and who want to purchase monetary instruments between \$3,000 and \$10,000 with currency, to first deposit the currency into their deposit accounts. A debit is made to the customer's account to pay for the monetary instrument. Financial institutions have requested guidance on whether the requirements of §103.29 must be met if the transaction is conducted this way and whether financial institutions risk liability under the BSA for implementing such a policy.

There is nothing within the BSA, or its implementing regulations, prohibiting a financial institution from instituting the policy described above. Further, the implementation of such a policy is within the financial institution's discretion. However, FinCEN takes the position that when a customer purchases a monetary instrument between \$3,000 and \$10,000 using currency that the customer first deposits into the customer's account, the transaction is still subject to the recordkeeping requirements of §103.29. This is true whether the transaction is conducted in this manner as required by a financial institution's established policy, or at the request of the customer. FinCEN anticipates that, in selling monetary instruments to deposit account holders, a financial institution will already maintain most of the information required by §103.29 in the normal course of its business, and therefore the requirement to fully comply with the regulation should not be overly burdensome.

Financial institutions are reminded that records required to be kept pursuant to §103.29 must be retained for five years and be made available upon request to FinCEN and any agency exercising delegated authority as set forth 31 C.F.R. §103.56. Accordingly, financial institutions should implement procedures to enable the required records to be available upon request.

Multiple purchases of the same or different types of monetary instruments on the same business day totaling between \$3,000 and \$10,000 must be treated as one purchase, if the financial institution has knowledge that the purchases have occurred. Frequent and/or sequential purchases of monetary instruments may be indicative of money laundering. Therefore, financial institutions should ensure appropriate procedures are in place to control the risk that can accompany contemporaneous purchases of monetary instruments, including transactions designed to evade BSA requirements, to determine whether the circumstances warrant the filing of a suspicious activity report.

Examples

Example 1: Customer X enters a branch of Bank Y with \$4,000 in currency with the intent to purchase a cashier's check. In accordance with the policy of Bank Y, the teller requests that Customer X deposit the \$4,000 into the customer's checking account. The teller then prepares a debit ticket to offset the purchase of the cashier's check. Bank Y is required to maintain records in accordance with §103.29.

Example 2: At 10:00 AM, Customer X enters Bank A with \$2,000 in currency and purchases a money order from Teller 1 with a face value of \$2,000. Later the same business day, Customer X goes back to Teller 1 at Bank A with an additional \$2,000 in currency to purchase a cashier's check. Teller 1 at Bank A has knowledge that these purchases occurred on the same business day. Multiple purchases of the same or different types of monetary instruments on the same business day totaling between \$3,000 and \$10,000, in which the financial institution has knowledge, should be treated as one purchase. Therefore, Bank A is required to maintain records in accordance with §103.29.