company is conducted through an insurance agent or broker, the insurance company shall obtain all the information necessary to ensure its compliance with the requirements of this section.

(c) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report by Insurance Companies (SAR–IC), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR–IC shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR–IC.

(3) *When to file.* A SAR–IC shall be filed no later than 30 calendar days after the date of the initial detection by the insurance company of facts that may constitute a basis for filing a SAR–IC under this section. If no suspect is identified on the date of such initial detection, an insurance company may delay filing a SAR–IC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the insurance company shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR–IC. Insurance companies wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–IC if required by this section.

(d) *Exception.* An insurance company is not required to file a SAR–IC to report the submission to it of false or fraudulent information to obtain a policy or make a claim, other than where such submission relates to money laundering or terrorist financing.

(e) *Retention of records.* An insurance company shall maintain a copy of any SAR–IC filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR–IC. Supporting documentation shall be identified as such and maintained by the insurance company, and shall be deemed to have been filed with the SAR–IC. An insurance company shall make all supporting documentation available to FinCEN, any other appropriate law enforcement agencies, or state regulators upon request.

(f) *Confidentiality of reports; limitation of liability.* No insurance company, and no director, officer, employee, or agent of any insurance company, that reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SAR–IC or the information contained in a SAR–IC, except where such disclosure is requested by FinCEN or another appropriate law enforcement or regulatory agency, shall decline to produce the SAR–IC or to provide any information that would disclose that a SAR–IC has been prepared or filed, citing this paragraph (f) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. An insurance company, and any director, officer, employee, or agent of such insurance company, that makes a report pursuant to this section (whether such report is required by this section or made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclose the fact of, such report, or both, to the extent provided by 31 U.S.C. 5318(g)(3).

(g) *Compliance.* Compliance with this section shall be audited by the Department of the Treasury, through FinCEN or its delegees, under the terms of the Bank Secrecy Act. Failure to satisfy the requirements of this section may constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

(h) *Effective date.* This section applies to transactions occurring 180 days after publication of the final rule based on this document.

(i) *Suspicious transaction reporting requirements for insurance companies registered or required to register with the Securities and Exchange Commission.* An insurance company that is registered or is required to register with the Securities and Exchange Commission shall be deemed to have satisfied the requirements of this section for those activities regulated by the Securities and Exchange Commission to the extent that the company complies with the suspicious activity reporting requirements applicable to such activities that are imposed under § 103.19.

Dated: October 10, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–26365 Filed 10–16–02; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA34

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Currency Dealers and Exchangers Report Suspicious Transactions

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is proposing to amend the Bank Secrecy Act regulations to require currency dealers and exchangers to report suspicious transactions to the Department of the Treasury, and to require all money services businesses to which the suspicious transaction reporting rule applies to report transactions involving suspected use of the money services business to facilitate criminal activity. The proposed amendments constitute a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury.

DATES: Written comments on all aspects of the proposal are welcome and must be received on or before December 16, 2002.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183–0039, *Attention:* NPRM—Suspicious Transaction Reporting—Currency Dealers and Exchangers. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.treas.gov,* with the caption in the body of the text, ''*Attention:* NPRM—Suspicious Transaction Reporting—Currency Dealers and Exchangers.'' For additional instructions on the submission of comments, see **SUPPLEMENTARY INFORMATION** under the heading ''Submission of Comments.''

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: David K. Gilles, Acting Assistant

Director, Office of Compliance and Regulatory Enforcement, FinCEN, (202) 354–6400; and Judith R. Starr, Chief Counsel, and Christine L. Schuetz, Attorney-Advisor, Office of Chief Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document contains a proposed rule that would amend 31 CFR 103.20(a)(1) to require currency dealers and exchangers to report suspicious transactions to FinCEN. FinCEN has determined that such reports have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings, and in the conduct of intelligence and counterintelligence activities, including analysis, to protect against international terrorism. The proposed rule also would amend 31 CFR 103.20(a)(2) by adding a fourth reporting category for transactions that are suspected to involve use of the money services business to facilitate criminal activity. Finally, under the proposed rule, the telephone number for FinCEN's Financial Institutions Hotline (1–866–556–3974) would be added to 31 CFR 103.20(b)(3). The suspicious transaction reporting rule would be effective 180 days after the date on which the final regulation to which this notice of proposed rulemaking relates is published in the **Federal Register**.

II. Background

A. Statutory Provisions

The Bank Secrecy Act (''BSA''), Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and to file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311–5314, 5316–5332) appear at 31 CFR part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

With the enactment of 31 U.S.C. 5318(g) in 1992,[2] Congress authorized the Secretary of the Treasury to require financial institutions to report suspicious transactions. As amended by the USA PATRIOT ACT, subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2)(A) provides further that:

> If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—
>
> (i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and
>
> (ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

Subsection (g)(3)(A) provides that neither a financial institution, nor any director, officer, employee, or agent of any financial institution

> that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, ''to the extent practicable and appropriate,'' to designate ''a single officer or agency of the United States to whom such reports shall be made.'' [3] The designated agency is in turn responsible for referring any report of a suspicious transaction to ''any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' *Id.,* at subsection (g)(4)(B).

B. Suspicious Activity Reporting by Money Services Businesses

By final rule published August 20, 1999, FinCEN revised the definitions of certain non-bank financial institutions for purposes of the Bank Secrecy Act and grouped the revised definitions together in a separate category called ''money services businesses.'' [4] A ''money services business'' includes each agent, agency, branch, or office within the United States of any person (except a bank or person registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission) doing business in one or more of the following capacities:

- Currency dealer or exchanger;
- Check casher;
- Issuer of traveler's checks, money orders, or stored value;
- Seller or redeemers of traveler's checks, money orders, or stored value;
- Money transmitter; and
- The United States Postal Service (except with regard to the sale of postage or philatelic products).

Persons who do not exchange currency, cash checks, or issue, sell, or redeem traveler's checks, money orders, or stored value in an amount greater than $1,000 to any person on any day in one or more transactions are not money services businesses for purposes of the Bank Secrecy Act.

On March 14, 2000, FinCEN published a final rule requiring certain money services business to report suspicious transactions to FinCEN beginning January 1, 2002 (the ''MSB SAR rule'').[5] Under the terms of the

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[1] Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107–56.

[2] 31 U.S.C. 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Public Law 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[3] This designation does not preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency or another agency ''pursuant to any other applicable provision of law.''

[4] *See* 64 FR 45438 (August 20, 1999), and 31 CFR 103.11(uu).

[5] *See* 65 FR 13683 (March 14, 2000). Banks, thrift institutions, and credit unions have been subject to the suspicious transaction reporting requirement since April 1, 1996 pursuant to regulations issued concurrently by FinCEN and the federal bank supervisors (the Board of Governors of the Federal Reserve System (''Federal Reserve''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA''). *See* 31 CFR 103.18 (FinCEN); 12 CFR 208.62 (Federal Reserve Board); 12 CFR 21.11 (OCC); 12 CFR 353.3 (FDIC); 12 CFR 563.180 (OTS); and 12

MSB SAR rule, found at 31 CFR 103.20, issuers, sellers, and redeemers (for monetary value) of traveler's checks and money orders, money transmitters, and the United States Postal Service, are required to report suspicious transactions to FinCEN.[6] A money services business to which the MSB SAR rule applies must file a report of any transaction conducted or attempted by, at, or through the money services business, involving or aggregating at least $2,000 (or $5,000 to the extent that the identification of transactions required to be reported is derived from a review of clearance records of money orders or traveler's checks that have been sold or processed), when the money services business knows, suspects, or has reason to suspect that the transaction falls into one of three categories.

The first reporting category contained in the MSB SAR rule, described in 31 CFR 103.20(a)(2)(i), includes transactions involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second category, described in 31 CFR 103.20(a)(2)(ii), involves transactions designed to evade the requirements of the Bank Secrecy Act. The third category, described in 31 CFR 103.20(a)(2)(iii), involves transactions that appear to have no business purpose or that vary so substantially from normal commercial activities or activities appropriate for the particular customer or type of customer as to have no reasonable explanation. Although the rule does not require the filing of multiple reports of suspicious activity by both a money services businesses and its agent with respect to the same reportable transaction, the obligation to identify and report suspicious transactions rests with each money services business involved in a particular transaction.

In accordance with paragraph 103.20(b) of the MSB SAR rule, money services businesses must report a suspicious transaction within 30 days after the money services business becomes aware of the suspicious transaction, by completing a Suspicious Activity Report-MSB (''SAR–MSB''). FinCEN published for comment on July 25, 2002 a draft SAR–MSB, which is now final and available for use.[7] FinCEN has made special provision for situations requiring immediate attention (*e.g.*, where delay in reporting might hinder law enforcement's ability to fully investigate the activity), in which case money services businesses are immediately to notify, by telephone, the appropriate law enforcement authority in addition to filing a SAR–MSB. Reports filed under the terms of the MSB SAR rule are lodged in a central database. Information contained in the database is made available electronically to federal and state law enforcement and regulatory agencies, to enhance their ability to fight financial crime and terrorism.

Paragraph 103.20(c) of the MSB SAR rule requires money services businesses to maintain copies of each filed SAR–MSB for five years. In addition, money services businesses must collect and maintain for five years supporting documentation relating to each SAR–MSB and make such documentation available to law enforcement and regulatory agencies upon request.

Paragraph 103.20(d) of the MSB SAR rule incorporates the terms of 31 U.S.C. 5318(g)(2) and (g)(3), and specifically prohibits persons filing reports in compliance with the MSB SAR rule (or voluntary reports of suspicious transactions) from disclosing, except to appropriate law enforcement and regulatory agencies, that a report has been prepared or filed. The paragraph also restates the BSA's broad protection from liability for making reports of suspicious transactions (whether such reports are required by the MSB SAR rule or made voluntarily), and for declining to disclose the fact of such reporting. The regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection; however, because FinCEN recognized the importance of these statutory provisions in the overall effort to encourage meaningful reports of suspicious transactions and to protect the legitimate privacy expectations of those who may be named in such reports, they are repeated in the rule to remind compliance officers and others of their existence.

Paragraph 103.20(e) of the MSB SAR rule provides that compliance with the MSB SAR rule will be audited by the Department of the Treasury through FinCEN or its delegee. Failure to comply with the rule may constitute a violation of the Bank Secrecy Act regulations, which may subject non-complying money services businesses to enforcement action under the Bank Secrecy Act.

C. Importance of Suspicious Transaction Reporting in Treasury's Counter Money-Laundering Program

The Congressional authorization of reporting of suspicious transactions recognizes two basic points that are central to Treasury's counter-money laundering and counter-financial crime programs. First, to realize full use of their ill-gotten gains, money launderers at some point must turn to financial institutions, either initially to conceal their illegal funds, or eventually to recycle those funds back into the economy. Second, the employees and officers of those institutions are often more likely than government officials to have a sense as to which transactions appear to lack commercial justification or otherwise cannot be explained as constituting a legitimate use of the financial institution's products and services.

The importance of extending suspicious transaction reporting to all relevant financial institutions, including non-bank financial institutions, derives from the concentrated scrutiny to which banks have been subject with respect to money laundering. This attention, combined with the cooperation that banks have given to law enforcement agencies and banking regulators to root out money laundering, has made it far more difficult than in the past to pass large amounts of cash directly into the nation's banks unnoticed. As it has become increasingly difficult to launder large amounts of cash through banks, criminals have turned to non-bank financial institutions in their attempts to launder funds. Indeed, many non-bank financial institutions increasingly have come to recognize the increased pressure that money launderers have placed upon their operations and the need for innovative programs of training and monitoring necessary to counter that pressure.

The reporting of suspicious transactions is also recognized as essential to an effective counter-money laundering program in the international consensus on the prevention and

CFR 748.1 (NCUA). On July 1, 2002, FinCEN published a final rule, found at 31 CFR 103.19, requiring broker-dealers to file reports of suspicious transactions beginning after December 30, 2002. *See* 67 FR 44048. On September 26, 2002, FinCEN published a final rule, found at 31 CFR 103.21, requiring casinos and card clubs to file reports of suspicious transactions. *See* 67 FR 60722.

[6] The rule requires money services businesses described in 31 CFR 103.11(uu)(3) (the money services business category that includes issuers of traveler's checks, money orders, or stored value), 103.11(uu)(4) (sellers or redeemers of traveler's checks, money orders, or stored value), 103.11(uu)(5) (money transmitters), and 103.11(uu)(6) (the United States Postal Service) to file reports of suspicious activity. However, given the infancy of the use of stored value products in the United States at the time of issuance of the final rule, issuers, sellers, and redeemers of stored value were explicitly carved out of the final MSB SAR rule. *See* 31 CFR 103.20(a)(5).

[7] *See* 67 FR48704 (July 25, 2002). The SAR–MSB and advice on how to complete it can be viewed on FinCEN's website (www.fincen.gov) under the categories of ''What's New'' and ''Regulatory.''

detection of money laundering. One of the central recommendations of the Financial Action Task Force Against Money Laundering (''FATF'') is that:

> If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.

Financial Action Task Force Annual Report (June 28, 1996),[8] Annex 1 (Recommendation 15). The recommendation applies equally to banks and non-banks.[9]

Similarly, the European Community's *Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering* calls for member states to

> ensure that credit and financial institutions and their directors and employees cooperate fully with the authorities responsible for combating money laundering * * * by [in part] informing those authorities, on their own initiative, of any fact which might be an indication of money laundering.

EC Directive, O.J. Eur. Comm. (No. L 166) 77 (1991), Article 6. *Accord, the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses of the Organization of American States,* OEA/Ser. P. AG/Doc. 2916/92 rev. 1 (May 23, 1992), Article 13, section 2.[10] All of these documents also recognize the importance of extending the counter-money laundering controls to ''non-traditional'' financial institutions, not simply to banks, both to ensure fair competition in the marketplace and to recognize that non-bank providers of financial services as well as depository institutions are an attractive mechanism for, and are threatened by, money launderers. *See, e.g.*, *Financial Action Task Force Annual Report, supra,* Annex 1 (Recommendation 8).

D. Suspicious Activity Reporting by Currency Dealers and Exchangers

The MSB SAR rule currently does not apply to either check cashers or to currency dealers/exchangers. As FinCEN explained in the preamble to the final MSB SAR rule, ''[b]ecause the operations of check cashers and currency exchangers generally involve disbursement rather than receipt of funds, the appropriate definition of suspicious activity involves issues not present to the same degree in the case of money transmitters and money order and traveler's check services.'' [11] However, FinCEN noted that it would continue to examine issues relating to the appropriate extension of suspicious transaction reporting to the full range of financial institutions subject to the Bank Secrecy Act.

FinCEN has determined that it is now appropriate to extend to currency dealers and exchangers the requirement to report suspicious transactions.[12] An effective anti-money laundering program must cover a broad range of financial institutions to make it increasingly difficult for criminals to evade detection by re-routing illicit transactions through financial institutions or products that are subject to a narrower scope of anti-money laundering rules than other types of financial institutions. The proposed rule is intended to foster detection and reporting of illegal activity involving the use of currency dealer/exchange services, including, among other things, money laundering and terrorist financing. In addition, the proposed rule is intended to contribute to international efforts to combat the abuse of currency dealers and exchangers by criminals.

Although currency dealers and exchangers offer products and services predominantly used for legitimate purposes, they can be abused by criminals seeking to obscure the source of illegally-derived funds. For example, small denomination bills may be exchanged for large denomination bills in order to aid in the smuggling of cash, or to disguise the origin of the cash.[13] In addition, currency dealers and exchangers have been used to launder narcotics proceeds being transferred between the United States and Latin America.[14]

The international consensus is that currency dealers and exchangers are vulnerable to abuse not only by money launderers but also by those wishing to finance terrorist activity. On October 31, 2001, FATF issued its *Special Recommendations on Terrorist Financing.* Special Recommendation Four provides that:

> [i]f financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations, they should be required to report promptly their suspicions to the competent authorities.

For purposes of FATF's Special Recommendation Four, the term ''financial institutions'' is intended to refer to both banks and non-bank financial institutions including, among other non-bank financial institutions, bureaux de change.[15] On December 4, 2001, the European Parliament and the Council of the European Union issued *Directive 2001/97/EC amending Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering* for the purpose of, among other things, reinforcing that anti-money laundering provisions should apply to currency exchange offices given expression of concern by the European Parliament regarding the vulnerability of such entities to money laundering. Finally, the experience of foreign governments with the use of currency dealers and exchangers in money laundering schemes emphasizes the importance of mandating suspicious activity reporting by currency dealers and exchangers.[16]

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[8] The FATF is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering. Originally created by the G–7 nations, its membership now includes Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States, as well as the European Commission and the Gulf Cooperation Council.

[9] This recommendation revises the original recommendation, issued in 1990, that required institutions to be either ''*permitted or* required'' to report. (Emphasis supplied.) The revised recommendation reflects the international consensus that a mandatory suspicious transaction reporting system is essential to an effective national counter-money laundering program and to the success of efforts of financial institutions themselves to prevent and detect the use of their services or facilities by money launderers and others engaged in financial crime.

[10] The Organization of American States (''OAS'') reporting requirement is linked to the provision of the Model Regulations that institutions ''shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.'' OAS Model Regulation, Article 13, section 1.

[11] 65 FR 13683, 13689 n. 26 (March 14, 2000).

[12] The terms currency ''dealer'' in 31 CFR 103.11(uu)(1) were intended to be interchangeable to ensure that the regulation captured the same type of activity whether denominated as exchanging or dealing—the physical exchange of currency for retail customers.

[13] *See e.g., U.S.*, v. *Farese, 248 F.3d 1056*, 1059 (11th Cir. 2001) (exchanging large-denomination bills for small-denomination bills facilitates money laundering by reducing the volume of the bills.)

[14] *See, e.g., U.S.* v. *All Monies in Account No. 90–3617–3,* 754 F. Supp. 1467 (D. Hi. 1991) (describing how drug traffickers laundered narcotics proceeds through a currency exchanger located in Peru, which had bank accounts in the United States).

[15] *See Guidance Notes for the Special Recommendations on Terrorist Financing and the Self-Assessment Questionnaire,* Special Recommendation Four, paragraph 19 (March 27, 2002). FATF defines ''bureaux de change'' as ''institutions which carry out retail foreign exchange operations.'' *See also Financial Action Task Force Annual Report, supra,* Annex 1 (Interpretive Note to Recommendations 8 and 9 (Bureaux de Change).

[16] *See, e.g.*, London Men Found Guilty of Laundering £3 Million Through Bureaux De Change, *HM Customs and Excise* (October 9, 2001); Legislative Summary for Bill C–22: An Act to

III. Specific Provisions

A. Reporting Institutions

FinCEN proposes amending paragraph 103.20(a)(1) to add currency dealers and exchangers to the list of money services businesses to which the MSB SAR rule applies. As explained above, this reflects growing concern on the part of FinCEN and the international community about the vulnerability of currency dealers and exchangers to money laundering and potentially to terrorist financing. It should be noted that, under the terms of the MSB SAR rule and the amendments to the rule proposed in this document, a money services business is subject to suspicious transaction reporting only with respect to transactions that involve or relate to the business activities described in 103.11(uu) (1), (3), (4), (5), or (6). Thus, for example, a currency dealer or exchanger (a money services business described in 103.11(uu)(1)) that is also a check casher (a money services business described in 103.11(uu)(2)) would not be required to report under the MSB SAR rule with respect to its check cashing activities in general, although it would be required to report check cashing activity that was part of a series of transactions that led to, for example, a suspicious currency exchange.[17]

B. Reportable Transactions

FinCEN is proposing to amend the MSB SAR rule by adding a fourth reporting category, described in proposed paragraph (a)(2)(iv), involving the use of a money services business to facilitate criminal activity. The addition of a fourth category of reportable transactions to the rule is intended to ensure that transactions involving legally-derived funds that the money services business suspects are being used for a criminal purpose, such as terrorist financing, are reported under the rule.[18] The addition of this reporting category is not intended to effect a substantive change in the rule. Such transactions should be reported under the broad language contained in the third reporting category, requiring the reporting of transactions with ''no business or apparent lawful purpose.'' FinCEN believes that this broad language should be interpreted to require the reporting of transactions that appear linked to any form of criminal activity. Nevertheless, the fourth category has been added to make explicit that transactions being carried out for the purpose of conducting illegal activities, whether or not funded from illegal activities, must be reported under the rule.

C. Filing Instructions

This document proposes amending paragraph 103.20(b)(3) to include FinCEN's Financial Institution Hotline (1–866–556–3974) for use by financial institutions wishing voluntarily to report to law enforcement suspicious transactions that may relate to terrorist activity. Money services businesses reporting suspicious activity by calling the Financial Institutions Hotline must still file a timely SAR–MSB to the extent required by 31 CFR 103.20.

IV. Submission of Comments

An original and four copies of any written hard copy comment (but not of comments sent via E-Mail), must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

V. Regulatory Flexibility Act

FinCEN certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The average currency exchange is approximately $300, an amount which is substantially below the $2000 threshold that triggers reporting under the proposed amendments to 31 CFR 103.20. Thus, FinCEN believes the rule will not have a significant economic burden on small entities.

VI. Executive Order 12866

The Department of the Treasury has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VII. Paperwork Reduction Act

Recordkeeping Requirements of 31 CFR 103.20. The collection of information contained in this notice of proposed rulemaking is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, with copies to FinCEN at Department of the Treasury, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, Virginia 22183. Comments on the collection of information should be received by December 16, 2002. In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR part 1320, the following information concerning the collection of information as required by 31 CFR 103.20 is presented to assist those persons wishing to comment on the information collection.

FinCEN anticipates that this proposed rule, if adopted as proposed, would result in the annual filing of a total of 3,100 SAR–MSB forms by currency dealers and exchangers. This result is an estimate, based on a projection of the size and volume of the industry.

Description of Respondents: Currency dealers and exchangers.

Estimated Number of Respondents: 3,100.

Frequency: As required.

Estimate of Burden: The reporting burden of 31 CFR 103.20 will be reflected in the burden of the form, Suspicious Activity Report-MSB. The recordkeeping burden of 31 CFR 103.20 is estimated as an average of 20 minutes per form.

Estimate of Total Annual Recordkeeping Burden on Respondents: Recordkeeping burden estimate = 1,033 hours.

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information

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Facilitate Combatting the Laundering of Proceeds of Crime, to Establish the Financial Transactions and Reports Analysis Centre of Canada and to Amend and Repeal Certain Acts in Consequence Thereof, LS–355E (May 5, 2000) (''Foreign currency-exchange houses are the second most common vehicle for money laundering. In addition to being less regulated than chartered banks, they provide services such as converting small denominations of cash into larger, less suspicious, denominations.''); *Financial Action Task Force 1997–1998 Report on Money Laundering Typologies,* (February 12, 1998) (In a typologies exercise conducted by FATF for the purpose of providing law enforcement and regulators a forum to discuss trends in money laundering, FATF found an increase in the use of currency exchangers in money laundering operations); *Financial Action Task Force Annual Report, supra,* Annex 1 (Interpretive Note to Recommendations 8 and 9 (Bureaux de Change) (Abuse of currency exchangers by money launderers has lead FATF to conclude that ''*bureaux de change should be subject to the same anti-money laundering regulations as any other financial institution** * * Of particular importance are those on identification requirements, suspicious transaction reporting, due diligence and record-keeping.'').

[17] FinCEN is continuing to review whether it is appropriate to extend the suspicious activity reporting requirement to other categories of money services businesses not currently subject to the rule.

[18] The fourth reporting category has been added to the suspicious activity reporting rules promulgated since the passage of the USA PATRIOT ACT to make this point clear. *See* 31 CFR 103.19, and 103.21.

is necessary for the proper performance of the mission of FinCEN, including whether the information will have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks, Banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, secs. 314, 352, Pub. L. 107–56, 115 Stat. 307.

2. In subpart B, amend § 103.20 as follows:

a. Revise the first sentence of paragraph (a)(1),

b. Add new paragraph (a)(2)(iv), and

c. Add a new sentence to the end of paragraph (b)(3).

The additons and revisions read as follows:

§ 103.20 Reports by money services businesses of suspicious transactions.

(a) *General.* (1) Every money services business, described in § 103.11(uu) (1), (3), (4), (5), or (6), shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. * * *

(2) * * *

(iv) Involves use of the money services business to facilitate criminal activity.

* * * * *

(b) * * *

(3) * * * Money services businesses wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–MSB if required by this section.

* * * * *

Dated: October 10, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–26364 Filed 10–16–02; 8:45 am]

BILLING CODE 4810–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2319; MB Docket No. 02–295; RM–10580]

Radio Broadcasting Services; Gonzales, Louisiana; Hattiesburg, Mississippi; Houma and Westwego, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This *Notice of Proposed Rule Making* requests comments on a petition for rule making filed jointly on behalf of Capstar TX Limited Partnership, licensee of Station WUSW(FM), Channel 279C, Hattiesburg, Mississisppi, and Clear Channel Radio Licenses, Inc., licensee of Station KFXN(FM), Channel 281C, Houma, Louisiana, (''Joint Petitioners''). The Joint Petitioners propose to downgrade Channel 279C, Station WUSW, to Channel 279C0 and change the community of license of Station WUSW from Hattiesburg, Mississippi, to Westwego, Louisiana. In addition, the Joint Petitioners propose to downgrade Channel 281C, Station KFXN, to Channel 281CO and move Station KFXN from Houma to Gonzales. The coordinates for requested Channel 279C0 at Westwego, Louisiana, are 29–54–52 NL and 89–54–34 WL with a site restriction of 22.5 kilometers (14 miles) east of Westwego. The coordinates for requested Channel 281C0 at Gonzales are 29–52–55 NL and 90–56–07 WL, with a site restriction of 39.5 kilometers (24.6 miles) south of Gonzales.

Joint Petitioner's reallotment proposals for Stations WUSW and KFXN comply with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 279C0 at Westwego, Louisiana, or the use of Channel 281C0 at Gonzales, Louisiana, or require the Joint Petitions to demonstrate the availability of additional equivalent class channels for use by other parties.

DATES: Comments must be filed on or before November 18, 2002, and reply comments on or before December 3, 2002.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Joint Petitioners' counsel, as follows: Mark N. Lipp, Esq., J. Thomas Nolan, Esq., and Tamara Y. Brown, Esq., Shook, Hardy & Bacon; 600 14th Street, NW., Suite 800; Washington, DC 20005–2004.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–295, adopted September 11, 2002, and released September 27, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.