



## Financial Crimes Enforcement Network Department of the Treasury

### FinCEN Letter Ruling 2003-5 – Requirements for Requesting an Administrative Ruling

August 15, 2003

Dear [ ]:

This is in response to your letter of May 19, 2003 to the Financial Crimes Enforcement Network ("FinCEN") requesting guidance as to whether your client, who provides funds for business operating capital to customers, may file Currency Transaction Reports ("CTRs") on behalf of the client's customers. The representations set forth in your request do not contain sufficient information, as required by the applicable regulations, to enable us to rule on it in its present form. It will be necessary for you to resubmit your request with the information described below, in order to obtain a ruling.

In accordance with 31 CFR Part 103 Subpart G, a person may request, and FinCEN has the authority to grant, an administrative ruling interpreting regulations promulgated under the Bank Secrecy Act ("BSA"). The requirements for requesting an administrative ruling are set forth in 31 CFR 103.81, and include, among other things, that a request for such a ruling contain a complete description of the situation for which a ruling is requested (103.81(a)(1)), a complete statement of all material facts (103.81(a)(2)), a concise and unambiguous question to be answered (103.81(a)(3)), and a statement certifying that the question to be answered is not subject to an ongoing proceeding (103.81(a)(4)).

Your letter indicates that your request is made on behalf of a client that is not identified. The identity of a client on whose behalf an administrative ruling is requested is a material fact, given the binding nature of an administrative ruling. Although it has discretion to do so, FinCEN generally disfavors issuing an administrative ruling on a hypothetical situation. Moreover, your letter does not contain a statement justifying why the situation you describe warrants issuance of a ruling in the absence of material factual representations. In addition to the identity of your client, you would need to provide a more complete statement of material facts, particularly with respect to the nature of your client's business and that of its customers (including whether your client or its customers are financial institutions for purposes of the BSA and therefore required to file CTRs), and the nature of the transactions that are the subject of your request for a ruling.

If you have specific questions regarding the application of the BSA and implementing regulations to specific transactions, I invite you to resubmit your written request in accordance with 31 CFR 103.81, or to call FinCEN's Regulatory Helpline at: 800-949-2732. A copy of the regulations outlining the process for submitting requests for letter rulings to FinCEN is enclosed.

Please note however, that the address contained in 31 CFR 103.81(d) is incorrect. Requests for administrative rulings must be addressed to David M. Vogt, Executive Associate Director, Office of Regulatory Programs, FinCEN, P.O. Box 39, Vienna, VA 22183. Please do not hesitate to contact Christine Schuetz of my staff at (703) 905-3590 should you have any questions about this letter, or the process for submitting a request for an administrative ruling.

Sincerely,  
//signed//  
Judith R. Starr  
Chief Counsel

Enclosures

cc: David M. Vogt, Executive Associate Director, Office of Regulatory Programs  
Deborah Silberman, Supervisory Program Officer, MSB/Casinos/IRS Section