

U.S. Department of the Treasury
Financial Crimes Enforcement Network

FinCENnews

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FinCEN Issues Final Rule Requiring Mutual Funds to Report Suspicious Activity

Under a final rule announced today by the Financial Crimes Enforcement Network (FinCEN), mutual funds are required to file Suspicious Activity Reports (SARs) on suspicious transactions. Mutual funds must start filing SARs 180 days after the date of the publication of the final rule in the Federal Register. The final rule will be published in the Federal Register on May 4, 2006.

The final rule announced today creates a suspicious transaction reporting requirement that is uniform with reporting requirements already established for other financial institutions, such as banks, broker-dealers, casinos, and money services businesses. Since May 2003, mutual funds have been subject to the rule requiring that they develop and implement anti-money laundering programs designed to prevent them from being used to launder money or finance terrorist activities.

“This final rule is another step in ensuring that the Bank Secrecy Act is applied appropriately to financial institutions, such as mutual funds, to create systems for preventing and detecting potential abuse by those seeking to launder money or finance terrorism,” said Robert W. Werner, Director of FinCEN. “Suspicious activity reporting by mutual funds is expected to provide highly useful information to both law enforcement and regulators and will be an additional tool to protect the U.S. financial system from terrorism and other illicit finance.”

The final rule for mutual funds specifies four categories of transactions that require reporting:

- Transactions involving funds derived from illegal activity, or intended or conducted in order to hide or disguise funds derived from such illegal activity as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;
- Transactions designed, whether through structuring or other means, to evade the requirements of the Bank Secrecy Act;

- Transactions that appear to serve no business or apparent lawful purposes, and for which the mutual fund knows of no reasonable explanation after examining the available facts relating to the transaction and the parties; and
- Transactions that involve the use of the mutual fund to facilitate criminal activity.

Mutual funds must report suspicious transactions that are conducted or attempted by, at, or through a mutual fund that involve or aggregate at least \$5,000 in funds or other assets. The obligation to report applies regardless of whether the transaction involves currency. Mutual funds are also encouraged to voluntarily report a suspected violation of the law that involves less than the \$5,000 threshold.

Mutual funds must use FinCEN Form 101 (Suspicious Activity Report by the Securities and Futures Industries) to report any suspicious transactions. FinCEN also will be issuing shortly a series of Frequently Asked Questions that are designed to assist mutual funds in establishing their suspicious activity reporting programs. Financial institutions may also call the FinCEN Regulatory Helpline at 800-949-2732 for assistance.

The Securities and Exchange Commission, which regulates the mutual fund industry, has been delegated the authority to examine mutual funds for compliance with the final rule.

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Attachment:

[Final Rule: Requirement to Report Suspicious Transactions](#)