

FinCEN Ruling 2001-1

July, 26 2001

Dear []:

This responds to your letter dated February 25, 2000, on behalf [] (the “Bank”), to the Financial Crimes Enforcement Network (“FinCEN”). In that letter, you requested a ruling on the application of the rules relating to the filing of a currency transaction report (“CTR”), as authorized under the Bank Secrecy Act and its implementing regulations, to the facts outlined below.

FACTS

Bank A and Bank B are subsidiaries of the same bank holding company. A customer maintains an account at Bank A, but not at Bank B. The customer makes a cash deposit of \$12,000 at Bank B for credit to his account at Bank A. Pursuant to an agency agreement between the banks, Bank B processes the cash deposit and sends the appropriate transaction information to Bank A. Bank A credits the customer’s account in the amount of the cash deposit. The two banks settle through an internal account procedure without any physical transfer of cash between the banks.

QUESTIONS

Your letter correctly acknowledges that the cash deposit of \$12,000 by Customer X must be reported on a CTR. You then ask the following two questions:

1. Which bank is responsible for filing the CTR, the bank receiving the cash, the bank that maintains the account and receives the cash deposit slip, or both banks?
2. If the bank that holds the customer’s account is responsible for filing the CTR, must the bank also aggregate the customer’s transactions made through its agent bank even though the transactions made through the agent are done manually and not through the bank holding the account electronic system in conformity with § 103.22(c)(2) aggregation rules?

ANALYSIS

A financial institution's obligation to file a CTR is described in 31 CFR 103.22(b), which provides that:

Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000

For purposes of the CTR requirement, a "financial institution" includes a bank, as well as any agent of a bank. 31 CFR 103.11(n).

According to the facts outlined above, the customer's cash deposit occurs "by, through, or to" Bank B, because Bank B is the financial institution that physically receives the cash. Thus, Bank B has an obligation to file a CTR. The customer's cash deposit also can be said to occur "by, through, or to" Bank A, because the cash deposit is conducted at one of its agents. Thus, both Bank A and Bank B are technically required to file a CTR;¹ however, to avoid unnecessary duplicative reporting, FinCEN would require that only one report actually be filed (in the manner set forth in the following paragraph) with respect to the same transaction. Thus, for example, Bank A would not need to file a CTR with respect to the customer's \$12,000 cash deposit so long as it knows a fact that Bank B filed a CTR with respect to that transaction, and vice-versa.²

If Bank A files a CTR with respect to the customer's \$12,000 deposit, then Bank A should fill out Part III of the CTR form with its own information. In addition, the accounts affected by the deposit should be listed below Box 35 ("Account Number(s) Affected (if any):") and the phrase "Affiliate Transaction(s)" should be written in below Box 36 ("Other (specify):"). Conversely, if Bank B chooses to file a CTR with respect to the \$12,000 deposit, then Bank B should fill out Part III of the CTR form with its own information. Further, the accounts affected by the deposit (even if those accounts are not held at Bank B) should be listed below Box 35 and the phrase "Affiliate transaction(s)" should be written in below Box 36. Completing the CTR in this fashion will serve to notify law enforcement that the reported transaction may not have been physically conducted at the filing financial institution and/or that the account affected by the transaction is not held at the filing institution.

With respect to aggregation, Bank A would need to aggregate multiple cash transactions conducted at Bank B, acting as Bank A's agent with respect to those transactions, to the extent that Bank A "has knowledge that [the transactions] are by or on behalf of any person and result in either cash in or cash out totaling more than \$10,000 during any one business day ..." 31 CFR 103.22(c)(2). Knowledge, in this context, means knowledge on the part of a partner, director,

¹ The terms of Administrative Ruling 88-5 (August 2, 1988), 31 CFR Part 103 Appendix, are not inapposite to this conclusion. In that ruling, Treasury held that a financial institution has an obligation to file a CTR to the extent that it uses an armored car service as its agent to collect, transport and process a customer's cash deposits. The ruling did not discuss whether, under those circumstances, the agent itself also has an obligation to file a CTR.

² A bank that relies on its affiliate to file a CTR should retain in its own files a copy of the filed CTR for examination purposes.

officer or employee of Bank A or on the part of any existing computer or manual system at Bank A that permits it to aggregate transactions. If Bank A does not have knowledge that multiple cash transactions have been conducted by or on behalf of the same person on the same business day at Bank B, then Bank A is not required to aggregate those transactions. It should be noted that Bank B also would have an obligation to aggregate multiple cash transactions conducted through it (although only one report must be filed with respect to the same transactions), to the extent that Bank B has knowledge that the transactions are conducted by or on behalf of the same person on the same business day.

We appreciate your willingness to comply with the requirements of the Bank Secrecy Act to the fullest extent, and apologize for the delay in responding to your request. Should you have any questions about this letter, please contact David K. Gilles at (202) 354-6400.

Sincerely,

Christine E. Carnavos
Executive Associate Director
Office of Compliance and Regulatory Enforcement