

shall be identified as such and maintained by the broker-dealer, and shall be deemed to have been filed with the SAR-BD. A broker-dealer shall make all supporting documentation available to FinCEN, any other appropriate law enforcement agencies or federal or state securities regulators, and for purposes of paragraph (g) of this section, to an SRO registered with the Securities and Exchange Commission, upon request.

(e) *Confidentiality of reports.* No financial institution, and no director, officer, employee, or agent of any financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported, except to the extent permitted by paragraph (a)(3) of this section. Thus, any person subpoenaed or otherwise requested to disclose a SAR-BD or the information contained in a SAR-BD, except where such disclosure is requested by FinCEN, the Securities and Exchange Commission, or another appropriate law enforcement or regulatory agency, or for purposes of paragraph (g) of this section, an SRO registered with the Securities and Exchange Commission, shall decline to produce the SAR-BD or to provide any information that would disclose that a SAR-BD has been prepared or filed, citing this paragraph (e) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto.

(f) *Limitation of liability.* A broker-dealer, and any director, officer, employee, or agent of such broker-dealer, that makes a report of any possible violation of law or regulation pursuant to this section or any other authority (or voluntarily) shall not be liable to any person under any law or regulation of the United States (or otherwise to the extent also provided in 31 U.S.C. 5318(g)(3), including in any arbitration proceeding) for any disclosure contained in, or for failure to disclose the fact of, such report.

(g) *Examination and enforcement.* Compliance with this section shall be examined by the Department of the Treasury, through FinCEN or its delegees, under the terms of the Bank Secrecy Act. Reports filed under this section shall be made available to an SRO registered with the Securities and Exchange Commission examining a broker-dealer for compliance with the requirements of this section. 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 after December 30, 2002.

**§ 103.20 Reports by money services businesses of suspicious transactions.**

(a) *General.* (1) Every money services business, described in §103.11(uu) (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. Any money services business may also file with the Treasury Department, by using the form specified in paragraph (b)(1) of this section, or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a money services business, involves or aggregates funds or other assets of at least \$2,000 (except as provided in paragraph (a)(3) of this section), and the money services business knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) 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;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330; or

(iii) Serves no business or apparent lawful purpose, and the reporting money services business knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(3) To the extent that the identification of transactions required to be reported is derived from a review of clearance records or other similar records of money orders or traveler's checks that have been sold or processed, an issuer of money orders or traveler's checks shall only be required to report a transaction or pattern of transactions that involves or aggregates funds or other assets of at least \$5,000.

(4) The obligation to identify and properly and timely to report a suspicious transaction rests with each money services business involved in the transaction, provided that no more than one report is required to be filed by the money services businesses involved in a particular transaction (so long as the report filed contains all relevant facts). Whether, in addition to any liability on its own for failure to report, a money services business that issues the instrument or provides the funds transfer service involved in the transaction may be liable for the failure of another money services business involved in the transaction to report that transaction depends upon the nature of the contractual or other relationship between the businesses, and the legal effect of the facts and circumstances of the relationship and transaction involved, under general principles of the law of agency.

(5) Notwithstanding the provisions of this section, a transaction that involves solely the issuance, or facilitation of the transfer of stored value, or the issuance, sale, or redemption of stored value, shall not be subject to reporting under this paragraph (a), until the promulgation of rules specifically relating to such reporting.

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

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

(3) *When to file.* A money services business subject to this section is required to file each SAR-MSB no later

than 30 calendar days after the date of the initial detection by the money services business of facts that may constitute a basis for filing a SAR-MSB under this section. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the money services business shall immediately notify by telephone an appropriate law enforcement authority in addition to filing a SAR-MSB.

(c) *Retention of records.* A money services business shall maintain a copy of any SAR-MSB 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-MSB. Supporting documentation shall be identified as such and maintained by the money services business, and shall be deemed to have been filed with the SAR-MSB. A money services business shall make all supporting documentation available to FinCEN and any other appropriate law enforcement agencies or supervisory agencies upon request.

(d) *Confidentiality of reports; limitation of liability.* No financial institution, and no director, officer, employee, or agent of any financial institution, who 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-MSB or the information contained in a SAR-MSB, except where such disclosure is requested by FinCEN or an appropriate law enforcement or supervisory agency, shall decline to produce the SAR-MSB or to provide any information that would disclose that a SAR-MSB has been prepared or filed, citing this paragraph (d) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. A reporting money services business, and any director, officer, employee, or agent of such reporting money services business, 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

§ 103.22

31 CFR Ch. I (7-1-02 Edition)

failure to disclose the fact of, such report, or both, to the extent provided by 31 U.S.C. 5318(g)(3).

(e) *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.

(f) *Effective date.* This section applies to transactions occurring after December 31, 2001.

[65 FR 13692, Mar. 14, 2000]

**§ 103.22 Reports of transactions in currency.**

(a) *General.* This section sets forth the rules for the reporting by financial institutions of transactions in currency. The reporting obligations themselves are stated in paragraph (b) of this section. The reporting rules relating to aggregation are stated in paragraph (c) of this section. Rules permitting banks to exempt certain transactions from the reporting obligations appear in paragraph (d) of this section.

(b) *Filing obligations—(1) Financial institutions other than casinos.* 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, except as otherwise provided in this section. In the case of the Postal Service, the obligation contained in the preceding sentence shall not apply to payments or transfers made solely in connection with the purchase of postage or philatelic products.

(2) *Casinos.* Each casino shall file a report of each transaction in currency, involving either cash in or cash out, of more than \$10,000.

(i) Transactions in currency involving cash in include, but are not limited to:

- (A) Purchases of chips, tokens, and plaques;
- (B) Front money deposits;
- (C) Safekeeping deposits;
- (D) Payments on any form of credit, including markers and counter checks;

(E) Bets of currency;

(F) Currency received by a casino for transmittal of funds through wire transfer for a customer;

(G) Purchases of a casino's check; and

(H) Exchanges of currency for currency, including foreign currency.

(ii) Transactions in currency involving cash out include, but are not limited to:

(A) Redemptions of chips, tokens, and plaques;

(B) Front money withdrawals;

(C) Safekeeping withdrawals;

(D) Advances on any form of credit, including markers and counter checks;

(E) Payments on bets, including slot jackpots;

(F) Payments by a casino to a customer based on receipt of funds through wire transfer for credit to a customer;

(G) Cashing of checks or other negotiable instruments;

(H) Exchanges of currency for currency, including foreign currency; and

(I) Reimbursements for customers' travel and entertainment expenses by the casino.

(c) *Aggregation—(1) Multiple branches.* A financial institution includes all of its domestic branch offices, and any recordkeeping facility, wherever located, that contains records relating to the transactions of the institution's domestic offices, for purposes of this section's reporting requirements.

(2) *Multiple transactions—general.* In the case of financial institutions other than casinos, for purposes of this section, multiple currency transactions shall be treated as a single transaction if the financial institution has knowledge that they 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 (or in the case of the Postal Service, any one day). Deposits made at night or over a weekend or holiday shall be treated as if received on the next business day following the deposit.

(3) *Multiple transactions—casinos.* In the case of a casino, multiple currency transactions shall be treated as a single transaction if the casino has knowledge that they are by or on behalf of any person and result in either cash in