

§ 103.84

the requester and submitted in conformity with §103.81 before they may be considered in connection with the request.

(Approved by the Office of Management and Budget under control number 1505-0105)

[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

§ 103.84 **Withdrawing requests.**

A person may withdraw a request for an administrative ruling at any time before the ruling has been issued.

§ 103.85 **Issuing rulings.**

The Assistant Secretary (Enforcement), or his designee may issue a written ruling interpreting the relationship between part 103 and each situation for which such a ruling has been requested in conformity with §103.81. A ruling issued under this section shall bind the Treasury Department only in the event that the request describes a specifically identified actual situation. A ruling issued under this section shall have precedential value, and hence may be relied upon by others similarly situated, only if it is published or will be published by the Office of Financial Enforcement in the FEDERAL REGISTER. Rulings with precedential value will be published periodically in the FEDERAL REGISTER and yearly in the Appendix to this part. All rulings with precedential value will be available by mail to any person upon written request specifically identifying the ruling sought. Treasury will make every effort to respond to each requestor within 90 days of receiving a request.

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§ 103.86 **Modifying or rescinding rulings.**

(a) The Assistant Secretary (Enforcement), or his designee may modify or rescind any ruling made pursuant to §103.85:

(1) When, in light of changes in the statute or regulations, the ruling no longer sets forth the interpretation of the Assistant Secretary (Enforcement) with respect to the described situation,

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

(2) When any fact or statement submitted in the original ruling request is found to be materially inaccurate or incomplete, or

(3) For other good cause.

(b) Any person may submit to the Assistant Secretary (Enforcement) a written request that an administrative ruling be modified or rescinded. The request should conform to the requirements of §103.81, explain why rescission or modification is warranted, and refer to any reasons in paragraph (a) of this section that are relevant. The request may advocate an alternative interpretation and may set forth the legal and factual basis for that interpretation.

(c) Treasury shall modify an existing administrative ruling by issuing a new ruling that rescinds the relevant prior ruling. Once rescinded, an administrative ruling shall no longer have any precedential value.

(d) An administrative ruling may be modified or rescinded retroactively with respect to one or more parties to the original ruling request if the Assistant Secretary determines that:

(1) A fact or statement in the original ruling request was materially inaccurate or incomplete,

(2) The requestor failed to notify in writing the Office of Enforcement of a material change to any fact or statement in the original request, or

(3) A party to the original request acted in bad faith when relying upon the ruling.

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§ 103.87 **Disclosing information.**

(a) Any part of any administrative ruling, including names, addresses, or information related to the business transactions of private parties, may be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. If the request for an administrative ruling contains information which the requestor wishes to be considered for exemption from disclosure under the Freedom of Information Act, the requestor should clearly identify such portions of the request and the reasons why such information should be exempt from disclosure.

(b) A requestor claiming an exemption from disclosure will be notified, at least 10 days before the administrative ruling is issued, of a decision not to exempt any of such information from disclosure so that the underlying request for an administrative ruling can be withdrawn if the requestor so chooses.

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Subpart H—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

SOURCE: 67 FR 9876, Mar. 4, 2002, unless otherwise noted.

§ 103.90 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Money laundering* means an activity described in 18 U.S.C. 1956 or 1957.

(b) *Terrorist activity* means an act of domestic terrorism or international terrorism as those terms are defined in 18 U.S.C. 2331.

§ 103.100 Information sharing with federal law enforcement agencies. [Reserved]

§ 103.110 Voluntary information sharing among financial institutions.

(a) *Definitions.* For purposes of this section:

(1) The definitions in § 103.90 apply;

(2) The term financial institution means any financial institution described in 31 U.S.C. 5312(a)(2) that:

(i) Is subject to a suspicious activity reporting requirement of subpart B of this part and is not a money services business, as defined in § 103.11(uu);

(ii) Is a broker or dealer in securities, as defined in § 103.11(f);

(iii) Is an issuer of traveler's checks or money orders, as defined in § 103.11(uu)(3);

(iv) Is a money transmitter, as defined in § 103.11(uu)(5), and is required to register as such pursuant to § 103.41; or

(v) Is an operator of a credit card system and is not a money services business, as defined in § 103.11(uu); and

(3) The term *association of financial institutions* means a group or organiza-

tion the membership of which is comprised entirely of financial institutions as defined in paragraph (a)(2) of this section.

(b) *Information sharing among financial institutions*—(1) *In general.* Subject to paragraphs (b)(2) and (g) of this section, a financial institution or an association of financial institutions may engage in the sharing of information with any other financial institution (as defined in paragraph (a)(2) of this section) or association of financial institutions (as defined in paragraph (a) (3) of this section) regarding individuals, entities, organizations, and countries for purposes of detecting, identifying, or reporting activities that the financial institution or association suspects may involve possible money laundering or terrorist activities.

(2) *Notice requirement*—(i) *Certification.* A financial institution or association of financial institutions that intends to engage in the sharing of information as described in paragraph (b)(1) of this section shall submit to FinCEN a certification described in Appendix B of this part.

(ii) *Address.* Completed certifications may be submitted to FinCEN:

(A) By accessing FinCEN's Internet website, <http://www.treas.gov/fincen>, and entering the appropriate information as directed; or

(B) If a financial institution does not have Internet access, by mail to: FinCEN, PO Box 39, Mail Stop 100, Vienna, VA 22183.

(iii) *One year duration of certification.* Each certification provided pursuant to paragraph (b)(2)(i) of this section shall be effective for the one year period beginning on the date of the certification. In order to continue to engage in the sharing of information after the end of the one year period, a financial institution or association of financial institutions must submit a new certification.

(c) *Security and confidentiality of information*—(1) *Procedures required.* Each financial institution or association of financial institutions that engages in the sharing of information pursuant to this section shall maintain adequate procedures to protect the security and confidentiality of such information.