



Department of the Treasury Financial Crimes Enforcement Network

RULING

FIN-1989-R005 (Formerly 89-5)

Issued: December 21, 1989

Subject: How does a financial institution fulfill the requirement that it furnish information about the person on whose behalf a reportable currency transaction is being conducted?

This ruling, formerly known as 89-5, was posted to the website on May 18, 2010; it was previously published via the *Federal Register*. Please note that this ruling pre-dates the customer identification rules that have since been implemented.

Facts

No. 1. Linda Scott has had an account relationship with the Bank for 15 years. Ms. Scott enters the bank and deposits \$ 15,000 in cash into her personal checking account. The bank knows that Ms. Scott is an artist who on occasions exhibits and sells her art work and that her art work currently is on exhibit at the local gallery. The bank further knows that cash deposits in the amount of \$ 15,000 are commensurate with Ms. Scott's art sales.

No. 2. Dick Wallace has recently opened a personal account at the Bank. Although the bank verified his identity when the account was opened, the bank has no additional information about Mr. Wallace. Mr. Wallace enters the bank with \$ 18,000 in currency and asks that it be wire transferred to a bank in a foreign country.

No. 3. Dorothy Green, a partner at a law firm, makes a \$ 50,000 cash deposit into the firm's trust account. n1 The bank knows that this is a trust account. The \$ 50,000 represents cash received from three clients.

n1 This type of account is sometimes called a trust account, attorney account or special account. It is an account established by an attorney into which commingled funds of clients may be deposited. It is not necessarily a "trust" in the legal sense of the term.

No. 4. Carlos Gomez enters a Currency Dealer and asks to buy \$ 12,000 in traveler's checks with cash.

No. 5. Gail Julian, a trusted employee of Q-mart, a large retail chain, enters the bank three times during one business day and makes three large cash deposits totaling \$ 48,000 into Q-mart's account. The Bank knows that Ms. Julian is responsible for making the deposits on behalf of Q-mart. Q-mart has an exemption limit of \$ 45,000.

Law and Analysis

Under § 103.28 of the Bank Secrecy Act ("BSA") regulations, 31 CFR part 103, a financial institution must report on a Currency Transaction Report ("CTR") the name and address of the individual conducting the transaction, and the identity, account number, and the social security or taxpayer identification number of any person on whose behalf the transaction was conducted. See 31 U.S.C. 5313. "A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made." Identifying information about the person on whose behalf the transaction is conducted must always be furnished if the transaction is reportable under the BSA, regardless of whether the transaction involves an account.

Because the BSA requires financial institutions to file complete and accurate CTR's, it is the financial institution's responsibility to ascertain the real party in interest. 31 U.S.C. 5313. One way that a financial institution can obtain information about the identity of the person on whose behalf the transaction is being conducted is to ask the person conducting the transaction whether he is acting for himself or on behalf of another person. Only if as a result of strong "know your customer" or other internal control policies, the financial institution is satisfied that its records contain information concerning the true identity of the person on whose behalf the transaction is conducted, may the financial institution rely on those records to complete the CTR.

No. 1. Linda Scott, an artist, is a known customer of the bank. The bank is aware that she is exhibiting her work at a local gallery and that cash deposits in the amount of \$ 15,000 would not be unusual or inconsistent with Ms. Scott's business practices. Therefore, if the bank through its stringent "know your customer" policies is satisfied that the money being deposited by Ms. Scott into her personal account is for her benefit, the bank need not ask Ms. Scott whether she is acting on behalf of someone else.

No. 2. Because Dick Wallace is a new customer of the bank and because the bank has no additional information about him or his business activity, the bank should ask Mr. Wallace whether he is acting on his own behalf or on behalf of someone else. This is particularly true given the nature of the transaction -- a wire transfer with cash for an individual to a foreign country.

No. 3. Dorothy Green's cash deposit of \$ 50,000 into the law firm's trust account clearly is being done on behalf of someone else. The bank should ask Ms. Green to identify the clients on whose behalf the transaction is being conducted. Because Ms. Green is acting both on behalf of her employer and the clients, the names of the three clients and the law firm should be included on the CTR filed by the bank.

No. 4. The currency dealer, having no account relationship with Carlos Gomez, should ask Mr. Gomez if he is acting on behalf of someone else.

No. 5. Gail Julian is known to the bank as a trusted employee of Q-mart, who often deposits cash into Q-mart's account. If the bank, through its strong "know your customer"

policies is satisfied that Ms. Julian makes these deposits on behalf of Q-mart, the bank need not ask her if she is acting on behalf of someone other than Q-mart.

Holding

It is the responsibility of a financial institution to file complete and accurate CTRs. This includes providing identifying information about the person on whose behalf the transaction is conducted in Part II of the CTR. One way that a financial institution can obtain information about the true identity of the person on whose behalf the transaction is being conducted is to ask the person conducting the transaction whether he is acting for himself or on behalf of another person. Only if as a result of strong "know your customer" or other internal control policies, the financial institution is satisfied that its records contain the necessary information concerning the true identity of the person on whose behalf the transaction is being conducted, may the financial institutions rely on those records in completing the CTR.