Department of the Treasury
Financial Crimes Enforcement Network

RULING

FIN-1988-R002 (Formerly 88-2)
Issued: June 22, 1988
Subject: When, if ever, should a bank file a CMIR on behalf of its customer, when the customer is importing or exporting more than $ 10,000 in currency or monetary instruments?

This ruling, formerly known as 88-2, was posted to the website on May 18, 2010; it was previously published via the *Federal Register*. Please note that references in this ruling to CTR form numbers are outdated.

Facts

A customer walks into B National Bank ("B") with $ 15,000 in cash for deposit into her account. As is required, the bank teller begins to fill out a Currency Transaction Report ("CTR", IRS Form 4789) in order to report a transaction in currency of more than $ 10,000. While the teller is filling out the CTR, the customer mentions to the teller that she has just received the money in a letter from a relative in France. Should the teller also file a CMIR, either on the customer's behalf or on the bank's behalf?

Law and Analysis

B National Bank should not file a CMIR when a customer deposits currency in excess of $ 10,000 into her account, even if the bank has knowledge that the customer received the currency from a place outside the United States. 31 CFR 103.23 requires that a CMIR be filed by anyone who transports, mails, ships or receives, or attempts, causes or attempts to cause the transportation, mailing, shipping or receiving of currency or monetary instruments in excess of $ 10,000, from or to a place outside the United States. The term "monetary instruments" includes currency and instruments such as negotiable instruments endorsed without restriction. See 31 CFR 103.11(k).

The obligation to file the CMIR is solely on the person who transports, mails, ships or receives, or causes or attempts to transport, mail, ship or receive. No other person is under any obligation to file a CMIR. Thus, if a customer walks into the bank and declares that he or she has received or transported currency in an aggregate amount exceeding $ 10,000 from a place outside the United States and wishes to deposit the currency into his or her account, the bank is under no obligation to file a CMIR on the customer's behalf. Likewise, because the bank itself did not receive the money from a customer outside the United States, it has no obligation to file a CMIR on its own behalf. The same holds true if a customer declares his intent to transport currency or monetary instruments in excess

of $ 10,000 to a place outside the United States.

However, the bank is strongly encouraged to inform the customer of the CMIR reporting requirement. If the bank has knowledge that the customer is aware of the CMIR reporting requirement, but is nevertheless disregarding the requirement or if information about the transaction is otherwise suspicious, the bank should contact the local office of the U.S. Customs Service or 1-800-BE ALERT. The United States Customs Service has been delegated authority by the Assistant Secretary (Enforcement) to investigate criminal violations of 31 CFR 103.23. See 31 CFR 103.36(c)(1).

Any information provided to Customs should be given within the confines of section 1103(c) of the Right to Financial Privacy Act, 12 U.S.C. 3401-3422. Section 1103(c) permits a financial institution to notify a Government authority of information relevant to a possible violation of any statute or regulation. Such information may consist of the name (including those of corporate entities) of any individual involved in the suspicious transaction; account numbers; home and business addresses; social security numbers; type of account; interest paid on account; location of branch where the suspicious transaction occurred; a specification of the offense that the financial institution believes has been committed; and a description of the activities giving rise to the bank's suspicions. See S. Rep. 99-433, 99th Cong., 2nd Sess., pp. 15-16. Therefore, under the facts above, the teller need only file a CTR for the deposit of the customer's $ 15,000 in currency.

A previous interpretation of § 103.23(b) by Treasury held that if a bank received currency or monetary instruments over the counter from a person who may have transported them into the United States, and knows that such items have been transported into the country, it must file a report on Form 4790 if a complete and truthful report has not been filed by the customer. See **31 CFR 103** appendix, § 103.23, interpretation 2, at 364 (1987). This ruling hereby supersedes that interpretation.

Holding

A bank should not file a CMIR when a customer deposits currency or monetary instruments in excess of $ 10,000 into her account even if the bank has knowledge that the currency or monetary instruments were received or transported from a place outside the United States. 31 CFR 103.23. The same is true if the bank has knowledge that the customer intends to transport the currency or monetary instruments to a place outside the United States. However, the bank is required to file a CTR if it receives in excess of $ 10,000 in cash from its customer, and is strongly encouraged to inform the customer of the CMIR requirements. In addition, if the bank has knowledge that the customer is aware of the CMIR reporting requirement and is nevertheless planning to disregard it or if the transaction is otherwise suspicious, the bank should notify the local office of the United States Customs Service (or 1-800-Be Alert) of the suspicious transaction. Such notice should be made within the confines of the Right to Financial Privacy Act, 12 U.S.C. 3403(c).