



Bank Secrecy Act Compliance

FIL-10-98  
January 29, 1998

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: *New Rules For Currency Transaction Reporting Exemptions*

The Financial Crimes Enforcement Network (FinCEN) recently announced a new rule on currency transaction reporting exemptions. The attached final rule took effect on January 1, 1998, and finalized the interim rule issued on April 24, 1996.

The interim rule established five classes of customers whose transactions could be exempted. As a result of comments received on the interim rule, some changes were made to the final rule, primarily in defining "exempt person." The definition of "exempt person" has expanded to:

- Include banks' domestic operations.
- Treat as a "listed entity" any entity, not just corporate entities, whose common stock or analogous equity interests are listed on any applicable stock exchange. Exemption status is no longer precluded by the nature of a particular company's business. For example, a listed company that is a gaming enterprise or that issues traveler's checks or money orders or engages in a money transmitting business as a principal is not for that reason denied exempt status.
- Include any domestic subsidiary of a listed entity that is at least 51 percent owned by the listed entity.
- Include domestic financial institutions, other than banks, that are listed entities or subsidiaries of a listed entity. (However, nonbank financial institutions are not exempt if they are not listed entities or subsidiaries of listed entities.)

An important provision carried over from the interim rule is that transactions by an "exempt person" as agent for another person who is the beneficial owner of the funds cannot be exempted.

To comply with the new rule, the bank must designate an exempt person by the close of the 30-day period beginning when the first reportable transaction in currency with that person occurs. As under the interim rule, a bank must file a one-time Currency Transaction Report (CTR) with FinCEN designating the customer as exempt.

For your information, we also have attached a proposed rule that would add two new classes of "exempt persons": (1) non-listed businesses (those entities eligible for either a "unilateral" or "special" exemption under the current system) and (2) payroll customers (customers who are U.S. residents and who regularly withdraw more than \$10,000 to pay their U.S. employees in currency). These new classes would be subject to:

- Designation and annual filing rules and amended operating rules.
- Three special requirements for the recognition of these exemptions:
  - Filing a "Designation of Exempt Person" form,
  - Including on the designation form a projection of the exempt person's annual currency needs, and
  - An annual filing confirming continuation of the exempt person's status as such, listing the aggregate currency deposited and withdrawn by the person during the year in question and any changes the bank knows about (or should know on the basis of its records) in the ownership or control of the exempt person. The annual filings would begin no later than February 28, 1999, and continue each February 28 thereafter.

The proposed rule also would eliminate many of the recordkeeping requirements of the current system, such as the deposit and withdrawal limits and signed exemption statements.

The proposed rule would add six new operating rules:

- Banks would be required to aggregate all customer accounts to apply the exemption provisions to that customer. Thus, the bank would be obligated to exempt a customer on a bank-wide basis and to count all accounts to determine whether a customer's cash withdrawals or deposits exceed \$10,000.
- Affiliated banks would be allowed to make a single designation of exempt person that would apply to all accounts at all banks within the affiliated group. However, annual currency transaction totals would have to be computed on a bank-by-bank basis.
- Sole proprietors would be eligible for exemption as long as personal and business funds are not commingled in the same accounts.
- Certain listed businesses could not be exempted as non-listed companies under the new rule.
- Transaction accounts would be redefined to exclude money market accounts.
- An established customer would be defined as any person who has maintained a transaction account at the bank for at least 12 months.

Please circulate this information to individuals within your institution having Bank Secrecy Act compliance responsibilities.

Nicholas J. Ketcha Jr.  
Director

Attachments:

Sept. 8th [Federal Register pages 47141-47148](#) and [Federal Register pages 47156-47166](#)

Distribution: FDIC-Supervised Banks (Commercial and Savings)

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