



# Department of the Treasury Financial Crimes Enforcement Network

## Guidance

**FIN-2008-G007**

**Issued: August 1, 2008**

**Subject: Recognizing Suspicious Activity - Red Flags for Casinos and Card Clubs**

---

This guidance is intended to assist casinos and card clubs<sup>1</sup> with the reporting of suspected money laundering, terrorist financing and related financial crimes. This guidance contains examples of circumstances or “red flags” - based on actual reports, the observations of examiners and the experience of law enforcement - that may indicate the presence of money laundering, terrorist financing, and related financial crimes.

Casinos that are subject to the federal Bank Secrecy Act (“BSA”) have an obligation to implement anti-money laundering programs that include procedures for detecting and reporting suspicious transactions. Casinos are required to implement risk-based anti-money laundering programs that assist with the identification and reporting of suspicious transactions, including employee training and written procedures on recognizing and addressing indicia of suspicious activity and vulnerabilities that may arise in the provision of particular products and services.

### Recognizing Suspicious Customer Activity

Casino employees who monitor customer gaming activity or conduct transactions with customers are in a unique position to recognize transactions and activities that appear to have no legitimate purpose, are not usual for a specific player or type of players, or are not consistent with transactions involving wagering. Many casinos routinely obtain a great deal of information about their customers through deposit, credit, check cashing, player rating and slot club accounts. These accounts generally require casinos to obtain basic identification information about the accountholders and to inquire into the kinds of wagering activities in which the customer is likely to engage.

### Attempts to Evade BSA Reporting or Recordkeeping Requirements

---

<sup>1</sup> See 31 U.S.C. § 5312(a)(2)(X) and 31 C.F.R. § 103.11(n)(5)(i) and (n)(6)(i). In this guidance, the term “casino” is used to refer to casinos, card clubs and other gaming establishments that fall within the BSA and FinCEN’s regulations, unless otherwise noted.

Be alert to customers who try to keep their transactions just below the reporting or recordkeeping thresholds, such as:

- Two or more customers each purchase chips with currency in amounts between \$3,000 and \$10,000, engage in minimal gaming, combine the chips (totaling in excess of \$10,000), and one of them redeems the chips for a casino check.
- A customer seeks to cash out chips, tickets or tokens in excess of \$10,000, but when asked for identification for completing a CTRC, reduces the amount of chips or tokens to be cashed out to less than \$10,000.
- A customer pays off a large credit debt, such as markers or bad checks, of more than \$20,000 over a short period of time (*e.g.*, less than one week), through a series of currency transactions, none of which exceeds \$10,000 in a gaming day.
- A customer receives a race book or sports pool payout in excess of \$10,000 and requests currency of less than \$10,000 and the balance paid in chips. The customer then goes to the cage and redeems the remaining chips for currency in an amount that is less than the CTRC reporting threshold.
- A customer, who is a big winner, enlists another individual (who is not a partner of the customer in the gaming activity), to cash out a portion of the chips or tokens won to avoid the filing of a CTRC, IRS Form W-2G or other tax forms.
- A customer attempts to influence, bribe, corrupt, or conspire with an employee not to file CTRCs.

### **Using a Cage Solely for Its Banking-Like Financial Services**

Be alert to customer activity involving unusual banking-like transactions at the cage, such as:

- A customer wires funds derived from non-gaming proceeds, to or through a bank and/or a non-bank financial institution(s) located in a country that is not his/her residence or place of business.
- A customer appears to use a casino account primarily as a temporary repository for funds by making frequent deposits into the account and, within a short period of time (*e.g.*, one to two days), requests money transfers of all but a token amount to domestic or foreign-based bank accounts.

### **Minimal Gaming Activities Without Reasonable Explanations**

Be alert to customers conducting large transactions on the floor with little or no related gaming activity and without reasonable explanation, such as:

- A customer purchases a large amount of chips with currency at a table, engages in minimal gaming, and then redeems the chips for a casino check.
- A customer draws casino markers (*e.g.*, between \$5,000 and \$10,000) which he/she uses to purchase chips, engages in minimal or no gaming activity, and then pays off the markers in currency and subsequently redeems the chips for a casino check.
- A customer makes a large deposit using numerous small denomination bills (*e.g.*, \$5s, \$10s and \$20s); and withdraws it in chips at a table game, engages in minimal gaming, and exchanges remaining chips at a cage for large denomination bills (*e.g.*, \$100), a casino check or a money transfer.
- While reviewing computerized player rating records, an employee determines that a customer frequently purchases chips with currency between \$5,000 and \$10,000, engages in minimal gaming, and walks away with the chips.
- A customer using a slot club account card inserts \$2,990 of paper money (or an amount just below established thresholds) into a bill acceptor on a slot machine or video lottery terminal (*e.g.*, contemporaneously inserting \$5s, \$10s and \$20s), accumulating credits with minimal or no gaming activity, presses the “cash out” button to obtain a ticket. The customer goes to three other machines and conducts the same activity for \$2,990 at each machine. Then the customer redeems the tickets for large denomination bills or casino checks with different cage cashiers at different times in a gaming day.
- A customer transfers funds to a casino for deposit into a front money account in excess of \$5,000; and withdraws it in chips at a table game, engages in minimal or no gaming activity, and exchanges remaining chips at a cage for a casino check.

## **Unusual Transaction Characteristics or Activities**

Be alert to transactions with any unusual characteristics, such as:

- A pair of bettors frequently cover between them both sides of an even bet, such as:
  - Betting both “red and black” or “odd and even” on roulette;
  - Betting both with and against the bank in baccarat/mini-baccarat; or
  - Betting the “pass line” or “come line” and the “don’t pass line” or “don’t come line” in craps; and,

the aggregate amount of both bettors’ total wagering is in excess of \$5,000.

- A customer routinely bets both sides of the same line for sporting events (*i.e.*, betting both teams to win) and thus the amount of overall loss to the customer is minimal (known as hedging).

- A customer requests the issuance of casino checks, each less than \$3,000, which are made payable to third parties or checks without a specified payee.
- A customer furnishes a legitimate type of identification document, in connection with the completion of a CTRC, or the opening of a deposit, credit or check cashing account, which:
  - Does not match the customer's appearance (*e.g.*, different age, height, eye color, sex); or
  - Is false or altered (*e.g.*, address changed, photograph substituted).
- A customer presents information for the completion of CTRCs for different gaming days that contains conflicting identification information, such as:
  - Different address or different spelling or numeration in address;
  - Different state driver's license number; or
  - Different social security number.
- A customer makes large deposits or pays off large markers with multiple instruments (*e.g.*, cashier's checks, money orders, traveler's checks, or foreign drafts) in amounts of less than \$3,000.
- A customer withdraws a large amount of funds (*e.g.*, \$30,000 or more) from a deposit account and requests that multiple casino checks be issued each of which is less than \$10,000.
- A customer arranges large money transfers out of the country which are paid for by multiple cashier's checks from different financial institutions in amounts under \$10,000.

## **Criminal Activities**

Be alert to a customer conducting illegal activity, such as:

- A customer conducts transactions that the casino believes to be the result of some illegal activity or from an illegal source (*e.g.*, narcotics trafficking).
- A customer or a group of individuals forge signatures or use counterfeit business or personal checks to obtain currency, chips or tokens.

\* \* \* \* \*

Questions or comments regarding the contents of this Guidance should be addressed to the FinCEN Regulatory Helpline at 800-949-2732.



# Department of the Treasury Financial Crimes Enforcement Network

## Advisory

**FIN-2009-A003**

**Issued: July 1, 2009**

**Subject: Structuring by Casino Patrons and Personnel**

---

The Financial Crimes Enforcement Network (“FinCEN”) recently received information from law enforcement and regulatory authorities that certain casino personnel may have complied with requests from patrons to evade, or provided instructions to patrons on how to evade, reporting and recordkeeping requirements under the Bank Secrecy Act (“BSA”).<sup>1</sup> It appears that casino patrons and personnel may have engaged in “structuring” certain transactions to evade such requirements.<sup>2</sup> The BSA prohibits any person, for the purpose of evading the requirement to report currency transactions or evading recordkeeping requirements under the BSA, from causing or attempting to cause a casino not to file a currency transaction report, to file a currency transaction report with material misstatements or omissions, not to maintain records required under the BSA, or to maintain these records in a form that is incomplete or inaccurate.<sup>3</sup> FinCEN is issuing this advisory to remind casinos and card clubs that structuring is unlawful, and that such activity can give rise to significant civil and criminal penalties under the BSA.<sup>4</sup> FinCEN is authorized to impose civil money penalties against casinos violating the BSA, and the U.S. Department of Justice prosecutes criminal violations of the BSA and related money-laundering statutes.<sup>5</sup>

Casinos subject to the BSA are required to develop and implement a compliance program reasonably designed to manage the risk of illicit activity and ensure compliance with the BSA and its implementing regulations.<sup>6</sup> The BSA requires casinos to file reports, properly identify customers conducting transactions, and maintain appropriate records of transactions. These reports and records are highly useful in criminal, tax, or regulatory investigations or proceedings,

---

<sup>1</sup> See 31 U.S.C. § 5311 *et seq.* and 31 C.F.R. Part 103.

<sup>2</sup> Structuring is a money laundering and terrorist financing “placement” technique. Structuring includes, among other activities, the “breaking up” of transactions for the purpose of evading BSA currency transaction reporting requirements. See 31 U.S.C. § 5324 and 31 C.F.R. §§ 103.11(gg) and 103.63.

<sup>3</sup> See 31 U.S.C. § 5324.

<sup>4</sup> See 31 U.S.C. §§ 5321 and 5324.

<sup>5</sup> See 31 U.S.C. §§ 5321(a)(4) and 5324 and 31 C.F.R. §§ 103.57(e) and 103.63; see also 18 U.S.C. §§ 1956 and 1957 (money laundering violations).

<sup>6</sup> See 31 C.F.R. §§ 103.64 and 103.120(d).

or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.<sup>7</sup>

Recent accounts from law enforcement and regulatory authorities allege that certain casino patrons may have conspired with casino personnel to structure transactions to evade BSA reporting and/or recordkeeping requirements. The following scenarios are illustrative of the relevant conduct being alleged:<sup>8</sup>

- A premium player induces casino personnel to allow breaking up of a transaction into multiple transactions so as to fall below the \$10,000 BSA currency transaction reporting threshold.
- A patron persuades casino personnel to alter or omit transaction information (*e.g.*, a player rating record) or identification information on casino records.
- A player with chips amounting to more than \$10,000 is told by a cage cashier that reducing the amount of the chip redemption to \$10,000 or below will avoid currency transaction reporting, and the player redeems less than \$10,000.
- A patron obtains assistance from a pit boss to allow the patron to intentionally coordinate buy-ins with the time of day when the casino's business or gaming day is concluded, in order to split cash transactions among different gaming days.

For any of these types of activities, casinos are obligated to file FinCEN Form 102, Suspicious Activity Report by Casinos and Card Clubs (“SARC”). Since structuring or any suspicious activity by casino personnel and patrons, including collusion and/or misuse of position by casino personnel including a casino host, constitutes reportable activity under the SARC provisions, a casino or card club is required to provide full disclosure of the subjects, identifying information and affiliations, business or employee relationships and associations in the applicable reporting items of the SARC, including the narrative part of the form.

Casinos are required also to deter, detect and report structuring by implementing a compliance program reasonably designed to prevent casino personnel and patrons from circumventing BSA requirements. A casino’s written anti-money laundering program must be tailored to the risks of its business, and ensure that internal controls, training, independent testing and designated personnel are in place to deter, detect and report structuring.<sup>9</sup> If structured transactions involve or aggregate to at least \$5,000 in funds or other assets, a casino must file a suspicious activity report.<sup>10</sup>

FinCEN is authorized to assess civil money penalties against a casino, card club, or any partner, director, officer, or employee thereof, for willful violations of BSA anti-money laundering program, reporting, and recordkeeping requirements, as follows:

---

<sup>7</sup> See 31 U.S.C. § 5311 and 31 C.F.R. §§ 103.12 and 103.31.

<sup>8</sup> These examples are in addition to those set forth in FinCEN’s previous guidance on “Recognizing Suspicious Activity - Red Flags for Casinos and Card Clubs” (FIN-2008-G007, August 1, 2008).

<sup>9</sup> For additional guidance on BSA compliance programs, see FinCEN’s Frequently Asked Questions – Casino Recordkeeping, Reporting and Compliance Program Requirements (FIN-2007-G005, November 14, 2007), questions and answers 21 through 23.

<sup>10</sup> See 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.21(a)(2)(ii).

- A penalty of \$25,000 per day may be assessed for failure to establish and implement an adequate written BSA compliance or anti-money laundering program, including program failures that led to instances of undetected structuring. A separate violation occurs for each day the violation continues.<sup>11</sup>
- A penalty not to exceed the greater of the amount involved in the transaction (but capped at \$100,000) or \$25,000 may be assessed for each currency transaction or suspicious activity reporting violation.<sup>12</sup>
- A penalty up to the amount of the coins and currency involved in the transaction[s] for structuring, attempting to structure, or assisting in structuring.<sup>13</sup>

FinCEN may also seek injunctive relief against future violations of the BSA.<sup>14</sup>

The Internal Revenue Service, Small Business/Self Employed Division (“IRS SB/SE”) examines casinos for compliance with the BSA, under delegated authority from FinCEN.<sup>15</sup> The IRS SB/SE can conduct examinations to address BSA compliance concerns on a singular, regional or national basis. The IRS has been advised of alleged structuring activity by casino patrons and personnel, and will be reviewing the adequacy of casino BSA compliance programs, as appropriate, to promote prevention, detection and reporting of any such activity. If the IRS discovers significant deficiencies, including structuring at a casino or card club, the matter will be referred to FinCEN for disposition, including consideration of civil money penalties or other sanctions.

\* \* \* \* \*

Questions or comments regarding the contents of this advisory should be addressed to the FinCEN Regulatory Helpline at (800) 949-2732.

---

<sup>11</sup> See 31 U.S.C. § 5321(a)(1).

<sup>12</sup> See 31 U.S.C. § 5321(a)(1) and 31 C.F.R. § 103.57(f).

<sup>13</sup> See 31 U.S.C. §§ 5321(a)(4) and 5324 and 31 C.F.R. §§ 103.57(e) and 103.63.

<sup>14</sup> See 31 U.S.C. § 5320.

<sup>15</sup> See 31 C.F.R. § 103.56(b)(8).

## Guidance



# Department of the Treasury Financial Crimes Enforcement Network

**FIN-2009-G004**

**Issued: September 30, 2009**

**Subject: Frequently Asked Questions**

**Casino Recordkeeping, Reporting, and Compliance Program  
Requirements**

This document provides guidance interpreting the requirements of the Bank Secrecy Act (“BSA”) regulations<sup>1</sup> as they apply to the casino and card club industries in the United States. We additionally published frequently asked questions for casinos and card clubs as FIN-2007-G005 on November 14, 2007. Casinos and card clubs may continue to rely on the guidance contained in FIN-2007-G005, which has not been incorporated into this publication.

### **Section A: 31 C.F.R. § 103.11 Casino and Card Club Definitions**

#### **Question 1: Do Nevada slot route operators operate “casinos” for purposes of rules implementing the BSA?**

**Answer 1:** A Nevada slot route operator is a gaming licensee who, pursuant to a participation agreement, owns and maintains slot machines at three or more business establishments. The business establishments are owned and operated by other persons.<sup>2</sup> While it is common for Nevada slot route operators to lease space from a property owner (usually referred to as a “space lease agreement”), and to pay a monthly rental payment to such a landlord, the Nevada slot route operator may have its own “nonrestricted” license to conduct gaming on the premises.<sup>3</sup> A Nevada slot route operator with a “nonrestricted” license to conduct gaming at a business establishment would be operating a “casino” at the business establishment for purposes of FinCEN’s BSA rules,<sup>4</sup> if gross annual gaming revenue of its operations at the business establishment exceeds \$1 million.<sup>5</sup>

<sup>1</sup> See 31 C.F.R. Part 103.

<sup>2</sup> See Nevada Revised Statute § 463.018 and Nevada Gaming Commission Regulation 1.170.

<sup>3</sup> Nevada gaming statutes define a “nonrestricted license” to include “a license for, or the operation of, a slot machine route.” See Nevada Revised Statute § 463.0177(3). A Nevada “nonrestricted license” or “nonrestricted operation” also includes, among other things: (i) “. . . license for, or an operation consisting of, 16 or more slot machines;” or (ii) “. . . license for, or operation of, any number of slot machines together with any other game, gaming device, race book or sports pool at one gaming establishment.” See Nevada Revised Statute § 463.0177(1) – (2).

<sup>4</sup> Only one “casino” will operate at a given establishment. The party that holds a “nonrestrictive license” and operates the slot machines pursuant to a participation agreement would be the operator of a casino. See Nevada

**Question 2: Are gaming or gambling establishments with gross annual gaming revenue of \$1,000,000 or less subject to any BSA requirements?**

**Answer 2:** Yes. The requirement to file a FinCEN/IRS Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, for currency<sup>6</sup> received in a trade or business applies to businesses that are not casinos or financial institutions under FinCEN's rules. The term "cash" for Form 8300 reporting purposes includes coin and currency of the United States or any other country, and may include cashier's checks, bank drafts, traveler's checks, or money orders received over \$10,000 in one transaction (or two or more related transactions) during a 12-month period.<sup>7</sup> For purposes of illustration, the following gaming and gambling establishments or nongaming related businesses normally would be subject to Form 8300 requirements:<sup>8</sup> (i) casinos or card clubs with gross annual gaming revenue of \$1,000,000 or less; (ii) tribal bingo halls, off-track betting parlors, greyhound tracks, horse race tracks,<sup>9</sup> or (iii) a casino hotel, gift shop, cater/banquet service, conference/seminar facilities,<sup>10</sup> etc. The BSA prohibits any person from structuring transactions to evade reporting or recordkeeping requirements under the BSA.<sup>11</sup>

---

Revised Statute § 463.245 ("A gaming license may not be issued to any person if the issuance would result in more than one licensed operation at a single establishment, whether or not the profits or revenue from gaming are shared between the licensed operations").

<sup>5</sup> Each business establishment with gross annual gaming revenues exceeding \$1 million would contain a separate "casino" for purposes of our rules. Nevada licenses gaming activity separately at each location. *See* Nevada Gaming Commission Regulation 3.010 ("[The Nevada Gaming Commission] may deny an application for a state gaming license if the Commission deems that the place or location for which the license is sought is unsuitable for the conduct of gaming operations"). If a Nevada slot route operator is not operating a casino for purposes of our rules, but qualifies as a check casher, or currency dealer or exchanger, as those terms are defined in 31 C.F.R. § 103.11(uu)), it may be considered a money services business ("MSB") and subject to BSA requirements applicable to MSBs.

<sup>6</sup> *See* 31 C.F.R. § 103.30(a)(1).

<sup>7</sup> *See* 31 C.F.R. § 103.30 and Section 6050I of Title 26 of the United State Code. The negotiable instruments are treated as currency if they are received in a "designated reporting transaction" or used in an attempt to avoid the Form 8300 requirement. Designated reporting transactions include the retail sale of consumer durables, collectibles, or travel or entertainment activities. *See* 31 C.F.R. § 103.30(c).

<sup>8</sup> However, if these other gambling establishments or nongaming related business satisfy the definition of a money services business ("MSB") in rules implementing the BSA (such as a check casher, or currency dealer or exchanger, as those terms are defined in 31 C.F.R. § 103.11(uu)), then they would be subject to FinCEN Form 104, Currency Transaction Report ("CTR") and other requirements applicable to MSBs.

<sup>9</sup> For treatment of bingo, *see* FinCEN's Frequently Asked Questions – Casino Recordkeeping, Reporting and Compliance Program Requirements (FIN-2007-G005, November 14, 2007), Question and Answer 2; for treatment of off-track betting, Question and Answer 5; for treatment of greyhound tracks, Question and Answer 6; and for treatment of horse race tracks, Question and Answer 7. Also, please note that these gambling establishments maybe subject to FinCEN Form 105, Report of International Transportation of Currency and Monetary Instruments ("CMIR") as well as Treasury Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts. *See* 31 C.F.R. §§ 103.23 and 103.24, respectively.

<sup>10</sup> *See* 31 C.F.R. § 103.30(d)(iii).

<sup>11</sup> *See* 31 U.S.C. 5324. Structuring would include attempts to cause Form 8300 not to be filed, or to file a false or incomplete form. The filer can check item 1b on the Form 8300 to report the structuring. In addition, it can be checked if there is an indication of possible illegal activity with the transaction.

## Section B: 31 C.F.R. § 103.22 Currency Transaction Reporting Requirements

### Question 3: What is the definition of a gaming day and what effect does it have on aggregating a customer's reportable currency transactions?

**Answer 3:** A gaming day is defined as the normal business day of a casino or card club. If a casino or card club offers 24-hour gaming, the term "gaming day" means that 24-hour period by which a casino or card club keeps its books and records for business, accounting, and tax purposes.<sup>12</sup> A casino or card club must have only one gaming day, which is common to all its gambling operating divisions or departments. Maintaining one gaming day facilitates the aggregation of transactions for purposes of currency transaction reporting.

### Question 4: Is a card club required to file FinCEN Form 103, Currency Transaction Report by Casinos ("CTRC"), for customer currency buy-ins at poker games?

**Answer 4:** Yes. When a customer at a poker table buys-in<sup>13</sup> for more than \$10,000 in chips with currency, in a single transaction or a series of related transactions in the same gaming day, a card club must assure compliance with CTRC requirements for such transactions. The same would apply to other non-house banked card games (*e.g.*, games commonly referred to as "California Games"<sup>14</sup> in certain card clubs or card rooms). If the card club has knowledge of the transactions, it must report the transactions on a CTRC.<sup>15</sup>

A card club must implement a program reasonably designed to assure compliance with the BSA.<sup>16</sup> For the reporting of transactions in currency, regardless of whether a card club has a multiple transaction log, it must have a system of internal controls, procedures for using all available information to determine and verify, when required, the name, address, Social Security or Taxpayer Identification Number, and other identifying information for a person, as well as train personnel.<sup>17</sup>

In addition, BSA rules impose record retention requirements on card clubs.<sup>18</sup> These requirements are independent of the requirement to implement a program for ensuring compliance with the BSA. FinCEN understands that many card clubs have internal controls that include a multiple transaction log to record currency transactions above a given threshold (usually \$2,500 - \$3,000). A card club that prepares or uses records of currency transactions, including currency transaction logs or multiple currency transaction logs, must retain the records.<sup>19</sup> Also, the record retention requirement applies to transactions conducted in card or

---

<sup>12</sup> See 31 C.F.R. § 103.64(b)(4).

<sup>13</sup> A buy-in is the amount of funds a player uses to purchase casino chips when commencing play. A buy-in can occur in cash, credit or as a deposit withdrawal.

<sup>14</sup> "California Games" are games in which one player acts as the bank for the game and the other players bet against the bank. The banker collects all winning bets and pays all losing bets from his/her bankroll. Games may include California Blackjack, Pai Gow Poker, Pai Gow Tiles, and Super Pan.

<sup>15</sup> The BSA defines knowledge for this purpose. See 31 C.F.R. § 103.22(c)(3).

<sup>16</sup> See 31 C.F.R. § 103.64.

<sup>17</sup> See 31 C.F.R. §§ 103.28 and 103.64(a)(2)(i), (a)(2)(iii), and (a)(2)(v)(A).

<sup>18</sup> See 31 C.F.R. § 103.38(d).

<sup>19</sup> See 31 C.F.R. § 103.36(b)(11).

poker rooms located within the facilities of casinos. Also, please note that to comply with regulations implementing the BSA, card clubs may need to prepare and retain records not otherwise produced in the ordinary course of business.<sup>20</sup> Similarly, a casino that prepares or uses multiple transaction logs or other records for monitoring the gaming activity of a customer (*e.g.*, in a poker room) must retain the records.<sup>21</sup>

**Question 5: Must a casino or card club have an internal control for customer chip redemptions at a cage?**

**Answer 5:** Yes. Casinos and card clubs are required to develop and implement written programs that are reasonably designed to assure compliance with all applicable BSA requirements. This includes establishing internal controls<sup>22</sup> to monitor compliance with currency transaction reporting requirements with regard to known customers. Neither 31 C.F.R. § 103.22(b)(2) nor (c)(3) states specifically that a casino or a card club must create a record of transactions that are less than \$10,000, a casino or card club would need an effective internal control for customers (known or unknown).<sup>23</sup> Therefore, to be able to identify large chip redemptions at a reasonable threshold under \$10,000 that were paid with currency that may have been structured to avoid reporting requirements or otherwise to obscure large cash out transactions, a casino or card club must have an internal control for customer chip redemptions at a cage. A casino or card club must aggregate customer currency transactions that occur on the floor or the cage, when it has obtained knowledge of such transactions either from examining records or actual knowledge (including of large chip redemptions for currency).<sup>24</sup> For similar reasons, a casino would need a method for identifying large redemptions at a reasonable threshold under \$10,000 of a betting ticket, token, or “TITO” ticket<sup>25</sup> that were paid with currency to a known customer.<sup>26</sup>

---

<sup>20</sup> See 31 C.F.R. § 103.38(b) which states that “If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained by this subpart, then such a record shall be prepared in writing by the financial institution.” Therefore, a card club employee monitoring a non-house banked card game, who has obtained actual knowledge of a reportable currency transaction, would be required to produce a record of the transaction for purposes of currency transaction reporting.

<sup>21</sup> See 31 C.F.R. § 103.36(b)(8).

<sup>22</sup> Independently, other Federal, state and tribal gaming commissions have established requirements for each duly licensed or authorized casino to establish minimum requirements for internal controls (*i.e.*, procedures) over gaming operations for complying with regulatory requirements (*i.e.*, Minimum Internal Control Standards – “MICS”).

<sup>23</sup> A known customer would include one who has a check cashing, credit or deposit account, or whose identity (*i.e.*, name, date of birth, address, and government identification number) has been previously verified on a filed CTRC or any federal tax form containing customer information. Also, an effective BSA internal control will include, in many instances, the creation and retention of records, including those not otherwise produced in the ordinary course of business. See 31 C.F.R. § 103.64(a)(2)(i) and 103.38(b).

<sup>24</sup> As illustrative examples, when: (i) customers provide to cage cashiers their identification credentials and/or casino account numbers for such large redemptions for currency (*i.e.*, just before, during or immediately after); or (ii) cashiers know who such customers are (*i.e.*, known customers) even in the absence of identification credentials or given account numbers for such redemptions.

<sup>25</sup> For a further explanation of Ticket in/Ticket Out (“TITO”), see FIN-2007-G005, Nov. 14, 2007, Question and Answer 16, footnote 57.

<sup>26</sup> FinCEN has addressed identifying betting ticket, chip, token, or TITO ticket redemptions for currency at a cage conducted by “unknown” customers in regards to suspicious activity reporting in Question and Answer 16 of FIN-2007-G005 (Nov. 14, 2007). As discussed in Question and Answer 16, a casino must implement procedures

**Question 6: To what extent is a casino required to aggregate credit card advances with other types of cash out transactions for currency transaction reporting purposes?**

**Answer 6:** A casino is required to file a CTRC on currency transactions by or on behalf of any customer that, alone or when aggregated, exceed \$10,000 in a gaming day. A casino must aggregate and report multiple currency transactions when it has knowledge that such transactions have occurred. Therefore, when a customer uses a credit card at an automated teller machine (“ATM”) or other cash access devices located in a casino or on casino property,<sup>27</sup> and then goes to a cage cashier to receive currency for this advance on credit, such transactions would be subject to currency transaction reporting, and they would need to be aggregated with other cash out transactions in which a casino has obtained knowledge to determine whether they exceeded \$10,000 to a customer in a gaming day.

**Question 7: Is a casino or card club chip runner, casino floor person, or a casino host required to be listed as an agent on a CTRC when they conduct currency transactions on behalf of customers?**

**Answer 7:** No. When cashing out chips in excess of \$10,000 in a gaming day for a customer who is actively gambling, a chip runner<sup>28</sup> or a floor person,<sup>29</sup> is acting within the scope of employment and is an agent of the card club or casino; they are not agents of a customer with respect to such transactions. Accordingly, the chip runner or floor person would not be listed as an agent of a customer on a CTRC. Similarly, a casino host,<sup>30</sup> acting within the scope of employment, is an agent of a casino, when conducting any currency transactions in excess of \$10,000 in a gaming day for a customer and would not be listed as an agent of a customer on a CTRC. If these casino or card club employees handle currency transactions in excess of \$10,000 for a customer, they would be required to obtain identification information from that customer for completion of a CTRC.

**Question 8: When a customer refuses to provide a Social Security Number for completing a CTRC, can a casino or card club write “Refused” in Item 7 of the CTRC?**

---

reasonably designed to assure the detection and proper reporting of suspicious transactions. *See* 31 C.F.R. § 103.64(a)(2)(v)(B).

<sup>27</sup> Customers can obtain cash directly from an ATM located within a casino typically up to \$500 per day per customer, depending on limits set by their depository institutions. For amounts above that general threshold, an ATM machine prints out vouchers that customers may take to a cage for payment, insert into a slot machine to play, or take to a kiosk machine for dispensing currency. In the event that the advance is dispensed at a kiosk machine, a casino may have knowledge of a customer’s transaction based on: (i) its contractual agreement with a financial service provider for the kiosk and (ii) its system of internal controls which typically requires that such a transaction of \$1,000 or more be linked to a customer.

<sup>28</sup> A chip runner is a card club or card room employee or a casino poker room employee who works on the gaming floor selling or redeeming gaming chips and/or conducting transactions at the cage on behalf of customers who are actively gambling.

<sup>29</sup> A floor person is a management employee who supervises the operation of a gaming table within a pit and also prepares a player rating card on each rated customer. Also known as a casino “rater.”

<sup>30</sup> A casino host is a marketing executive of a casino who is responsible for catering to high-end customers’ needs. Duties include assisting in the opening of deposit and credit accounts for customers, and issuing complimentary gifts and services to customers to induce their continued patronage.

**Answer 8:** No. When a casino or card club has obtained actual knowledge of a reportable currency transaction, it must obtain the identification information (such as customer name, permanent address, and Social Security Number (“SSN”)) needed to file a complete and accurate CTRC, and then verify the name and address “before concluding the transaction.” If the customer’s state driver’s license does not contain a Social Security Number and the customer does not provide a paper Social Security Number card issued by the Social Security Administration, a casino or card club can enter a verbally provided SSN on a CTRC. Also, FinCEN understands that a casino may have the customer complete an IRS Form W-9, Request for Taxpayer Identification Number and Certification,<sup>31</sup> to obtain a person’s correct Taxpayer Identification Number<sup>32</sup> or, if the customer has a deposit or credit account with the casino, the casino will review the account to obtain the SSN since the SSN is required at the time that the account is opened.<sup>33</sup> In all cases, a casino or a card club must file a CTRC for reportable transactions with all of the required identifying information that it has obtained from a customer, government records it maintains and/or other verified internal records.<sup>34</sup>

**Question 9: Are two separately licensed, but jointly-owned riverboat casinos that are operating from the same dock and sharing certain information systems, required to aggregate currency transactions by the same customer that occurred at both casinos?**

**Answer 9:** No. Each casino licensee is a separate financial institution for purposes of complying with currency transaction reporting. Two riverboat casinos that are under common ownership and common management, share certain information systems, maintain similar accounting and internal control procedures, or use the same docking facilities, but which have separate licenses, are not required under 31 C.F.R. § 103.22(b)(2) and (c)(3) to aggregate and report customer currency transactions that occurred at both facilities.<sup>35</sup> Nonetheless, for two

---

<sup>31</sup> IRS Form W-9 requires the customer to certify, under penalties of perjury, that the number shown on the form is the correct Taxpayer Identification Number, and he/she is a U.S. person (including a U.S. resident alien), when the customer signs and dates the form.

<sup>32</sup> Please note that the Internal Revenue Service issues an Individual Taxpayer Identification Number (“ITIN”) to be used as a tax processing number for individuals who do not qualify to obtain Social Security Numbers (“SSNs”). Since an ITIN is not acceptable as a primary means of identification for purposes of completing Items 14 and 28 on the CTRC, FinCEN will discuss it in the next set of casino frequently asked questions.

<sup>33</sup> In these situations, if a customer refuses to provide a SSN on a Form W-9 for filing a CTRC or completing a Federal income tax form, FinCEN understands that many state and tribal regulators support the standard industry practice of providing a receipt and retaining a customer’s chips, tokens and/or tickets until a SSN is provided at which time a CTRC will be completed. FinCEN understands that casinos’ experiences have shown that customers will return with their identification credentials to complete the cashing out of large chip, ticket, and/or token transactions which are then followed by the filings of CTRCs. Also, if a casino or card club knows, suspects, or has reason to suspect that a suspicious transaction was conducted or attempted by, at, or through a casino or card club, and involve \$5,000 or more a FinCEN Form 102 is applicable. Information that could point to the need for a SARC may include a customer providing a false SSN in the past, refusing to provide a SSN or not providing it within the filing period for the CTRC.

<sup>34</sup> See 31 C.F.R. § 103.64(a)(2)(v)(A).

<sup>35</sup> A somewhat similar analysis would apply to land-based tribal casinos authorized pursuant to the Indian Gaming Regulatory Act. See 25 U.S.C. § 2701 et seq. Therefore, a tribal government may own more than one tribal casino in the same state, but each casino that is separately licensed by the tribal government or the tribal gaming commission would be considered a separately authorized gaming establishment for purposes of currency transaction reporting, even when the casinos have the same Taxpayer Identification Number for purposes of Title 26.

riverboat casinos with automated data processing systems that are closely integrated, automated programs for compliance with the BSA must provide for the use of these systems to aid in assuring compliance with identifying transactions that appear to be suspicious and that are conducted between the two casinos by known customers<sup>36</sup> (e.g., to evade the \$10,000 reporting requirement through structuring).<sup>37</sup>

**Question 10: Is a casino required to file a CTRC on customer jackpot wins from casino games other than slot jackpot or video lottery terminal wins?**

**Answer 10:** Yes. A casino is required to file a CTRC on customer jackpot wins paid in currency from casino games other than slot jackpot or video lottery terminal wins.<sup>38</sup> These include among other games, bingo (traditional),<sup>39</sup> Caribbean stud poker, keno, or let it ride poker.<sup>40</sup> These transactions may need to be aggregated with other cash out transactions.

**Section C: 31 C.F.R. § 103.21 Suspicious Transaction Reporting Requirements**

**Question 11: May a casino share information with another casino concerning potential suspicious activity?**

**Answer 11:** Yes, casinos may utilize Section 314(b)<sup>41</sup> information sharing to work together to identify money laundering and terrorist financing. Also, casinos can utilize Section 314(b) information sharing with depository institutions and money services businesses. Section 314(b) as implemented by 31 C.F.R. § 103.110, establishes a safe harbor from liability for a financial institution or association of financial institutions that voluntarily chooses to share information with other financial institutions for the purpose of identifying and, where appropriate, reporting money laundering or terrorist activity (if required notification, verification and information security is in place). Section 314(b) permits sharing information relating to transactions that a financial institution suspects may involve the proceeds of one or more specified unlawful activities listed in 18 U.S.C. §§ 1956 and 1957, which include an array of fraudulent and other

---

<sup>36</sup> See Question and Answer 5, Footnote 22, for a discussion of known customers.

<sup>37</sup> See 31 C.F.R. §§ 103.21(a)(2)(ii), 103.63, and 103.64(a)(2)(vi). FinCEN recognizes that even for two casinos with automated data processing systems and programs that are closely integrated, that for an unknown customer that lacks a casino deposit (i.e., safekeeping, front money or wagering), credit, check cashing, player rating/player tracking, or slot club account, that as a practical matter, it would difficult to monitor such a customer for suspicious activity reporting without associating information from casino surveillance and multiple transaction logs on currency transactions that are less than CTRC reporting threshold at both casinos.

<sup>38</sup> A casino is not required to file a CTRC on slot jackpot or video lottery terminal wins in excess of \$10,000 in currency. See FIN-2007-G005, Nov. 14, 2007, Question and Answer 12.

<sup>39</sup> Traditional bingo is played with cards or paper having a grid of numbered squares corresponding to numbered balls drawn at random; it is not played with any computerized electronic aids.

<sup>40</sup> For treatment of poker under the BSA, see FIN-2007-G005, November 14, 2007, Question and Answer 2.

<sup>41</sup> See 314(b) of the USA PATRIOT Act of 2001 (Public Law 107-56) which states in part that: “[u]pon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities.”

criminal activities.<sup>42</sup> The safe harbor afforded by Section 314(b) is only available to financial institutions that are required to implement an anti-money laundering program, which includes, for example, depository institutions regulated by a federal functional regulator,<sup>43</sup> casinos, and money services businesses.<sup>44</sup>

Section 314(b) does not replace the existing obligations of financial institutions to file suspicious activity reports when required. Please note that the Section 314(b) process cannot be used by a casino to exchange information with another casino about customers conducting non-criminal financial activities, such as card counting. Also, please note that the process cannot be used to share a copy of a filed FinCEN Form 102, Suspicious Activity Report by Casinos and Card Clubs (“SARC”) or the fact that it was filed, with another financial institution.<sup>45</sup> However, the underlying information in the SAR may be disclosed as long as the existence/fact that a SAR has been filed is not revealed. For additional information on the Section 314(b) voluntary information sharing program, or to submit a notice to FinCEN to share information voluntarily, refer to [www.fincen.gov](http://www.fincen.gov).

**Question 12: Is a casino or card club required to file a SARC, or FinCEN Form 109, Suspicious Activity Report by Money Service Business (SAR-MSB), for suspicious money transfers or wire transfers that it receives or sends?**

**Answer 12:** A casino or a card club’s requirement to report suspicious activities applies to all types of financial services conducted or attempted by, at, or through a casino or card club. When a casino or card club sells or redeems money transfers or wire transfers within its cage facility, conducted pursuant to a contractual or other arrangement with a money transfer issuer or a bank, it would be required to file a SARC, when it knows, suspects or has a reason to suspect that the transaction or pattern of transactions is both suspicious and involves \$5,000 or more. However, if the casino or card club enters into a contractual agreement to lease space within the establishment to a money transfer company and the company’s agent(s) operate the business, then the money services business suspicious activity reporting rules would apply and the money transfer company would use FinCEN Form 109 to report suspicious activity.<sup>46</sup>

**Question 13: To what extent should casinos and card clubs use the “other” box in Item 26 on the SARC to describe the type of suspicious activity?**

**Answer 13:** Item 26 on the SARC contains a list of 16 specific types of suspicious activity. Because suspicious transactions may comprise more than one of the listed types of activities, casinos and card clubs should check as many boxes as are applicable (but be sure to check at least one box). FinCEN encourages casinos and card clubs to *refrain* from checking box “q” for “Other” on the form unless the activity is not covered by the existing list of suspicious

---

<sup>42</sup> See FIN-2009-G002, Guidance on the Scope of Permissible Information Sharing Covered by Section 314(b) Safe Harbor of the USA PATRIOT Act (June 16, 2009).

<sup>43</sup> See 31 C.F.R. § 103.120.

<sup>44</sup> See 31 C.F.R. § 103.125.

<sup>45</sup> See 31 U.S.C. § 5318(g)(2) and 31 C.F.R. § 103.21(e).

<sup>46</sup> See 31 C.F.R. § 103.20

activities.<sup>47</sup> Please note that casinos and card clubs must complete Part VI, the narrative portion of the form,<sup>48</sup> regardless of whether the “Other” box is checked. FinCEN understands that some casinos and card clubs may have mistakenly interpreted box “q”, “Other (Describe in Part VI)” to mean that to complete the SARC’s “Narrative,” you must check this box, since it asks a filer to describe the suspicious activity in Part VI. This is incorrect.

Filing forms without checking the appropriate type(s) of suspicious activity or failing to check appropriate boxes describing the types of suspicious activity diminishes their utility to law enforcement and limits FinCEN’s ability to sort these particular forms for review and analysis to look for patterns of suspicious activities.

**Question 14: What type of records is a casino or card club required to retain to support a SARC that it has filed?**

**Answer 14:** A casino or card club must maintain supporting documentation or business record equivalents<sup>49</sup> with a copy of the filed suspicious activity report for five years from the date of filing the report. Typically, such documentation may include canceled checks, confessions, credit bureau reports, credit slips/vouchers, deposit/withdrawal slips, multiple transaction logs, player rating and slot club account records,<sup>50</sup> identification credentials, spreadsheets, photographs, surveillance audio and/or video recording media, and surveillance logs.<sup>51</sup> For casinos that have hotels, and in the absence of any information other than a customer’s name, other supporting documentation may include credit/debit cards, guest folios, and safety deposit box registrations.

**Question 15: Once a casino or card club files a SARC, what are its ongoing filing requirements when customers continue to frequent the casino or card club and/or conduct additional suspicious activity?**

**Answer 15:** After a casino or card club files a SARC it should report continuing suspicious activity with a report being filed at least every 90 days.<sup>52</sup> This notifies law enforcement of the

---

<sup>47</sup> For example, annually over the last six years approximately 25 to 35 percent of forms filed had only the “Other” box checked or no specific activity checked at all, instead of checking the appropriate type(s) of suspicious activities. Casinos and card clubs *should avoid checking “Other”* to complete the SARC’s Narrative unless the type of suspicious activity that occurred is not listed in Item 26 (*see* FinCEN Form 102, Instructions, Item 26).

<sup>48</sup> For guidance on how to prepare a clear and concise narrative, *see* FIN-2007-G005, Nov. 14, 2007, Question and Answer 2.

<sup>49</sup> *See* FinCEN Guidance FIN-2007-G003, Suspicious Activity Report Supporting Documentation, issued on June 13, 2007.

<sup>50</sup> Player rating records, which we addressed in 54 F.R. 1165 – 1167 (Jan. 12, 1989), reflect all cash activity recorded on them (regardless of the amount) that have occurred on the gaming floor. Player rating and slot club accounts track gaming activity and serve as a marketing tool to: (i) identify frequent customers as well as higher dollar players, (ii) encourage continued patronage, and (iii) ensure that complementaries are awarded on a cost-effective basis. Casinos utilize internal controls to help to ensure accountability for customers using player rating and slot club account cards. A customer's computerized player rating or slot club account record typically contains a customer's name, permanent address, date of birth, sometimes other identification information (*e.g.*, Social Security Number for purposes of Internal Revenue Code income tax reporting for jackpot wins) as well as a player’s gambling activity.

<sup>51</sup> *See* FinCEN Form 102 (Instructions, page 2).

<sup>52</sup> *See The SAR Activity Review – Trends, Tips & Issues, Issue 10* (May 2006), Section 4, pages 35 – 36, *The SAR*

continuing nature of the activity, and serves as a reminder to the organization that it must continue to review the suspicious activity to determine if other actions may be appropriate.<sup>53</sup> This should continue even if a law enforcement agency has declined to investigate or there is knowledge that an investigation has begun, since the information contained in a SARC may be of interest to other law enforcement agencies as well as gaming regulatory agencies.

**Question 16: What does the SAR non-disclosure provision mean to a casino or card club that has filed a SARC?**

**Answer 16:** No financial institution, or director, officer, employee, or agent of any financial institution, who reports a suspicious transaction, may notify any person involved in the transaction that the transaction has been reported, including any person identified in the suspicious activity report. Moreover, a filed SARC, as well as information that would reveal the existence of a SARC (including any document, memorandum, record, log, or work papers that references a SARC) must be treated as confidential.<sup>54</sup> Therefore, any person subpoenaed or otherwise requested to disclose a SARC or the information that would reveal the existence of a SARC to a source that is not an appropriate law enforcement or regulatory agency, or FinCEN, shall decline to produce the SARC or to provide any information that would reveal the existence of a SARC.<sup>55</sup> If a casino or card club does receive a request for SARC information (except for those from an appropriate law enforcement or regulatory agency), it must decline the request and notify FinCEN's Office of Chief Counsel at (703) 905-3590.

**Question 17: Can a domestic casino parent or headquarters corporation and its domestic casino affiliates, branches, or places of business consult with each other before filing a SARC?**

**Answer 17:** Yes. Under the SAR non-disclosure provisions, there is nothing prohibiting a domestic casino parent or headquarters corporation and its domestic casino affiliates, branches, or places of business from consulting with each other *before* a SAR form is filed concerning customer accountholder activity that is occurring at more than one of its casinos as part of their parent-affiliate relationship. Also, this would include discussion or sharing any underlying information about a customer and transaction(s) before a SARC is filed.<sup>56</sup> However, a domestic parent or headquarters corporation and its domestic casino affiliates, branches, or places of

---

*Activity Review – Trends, Tips & Issue, Issue 2* (June 2001), Section 6, page 35 and *The SAR Activity Review – Trends, Tips & Issues, Issue 2* (October 2000), Section 5, page 27.

<sup>53</sup> These may include, for example, when required by state, tribal or local gaming regulation, subsequently barring or banning a customer from future gambling and accountholder activity. *See* SARC, Item 22.

<sup>54</sup> *See* 31 U.S.C. § 5318(g)(2) and 31 C.F.R. § 103.21(e). FinCEN proposed amendments to 31 C.F.R. § 103.21 to expand and clarify the confidentiality that should be afforded SARCs and information that would reveal the existence of a SARC. *See* 74 F.R. 10148, 10157 – 10158 (Mar. 9, 2009). Readers of this guidance should consult that rule, when finalized, for more specific information regarding the appropriate parties to whom a SARC may be provided.

<sup>55</sup> For examples of appropriate law enforcement and regulatory agencies *see The SAR Activity Review, Trends Tips & Issues, Issue 9, October 2005* (pages 43 - 45).

<sup>56</sup> Also, there is nothing to prohibit a domestic casino parent or headquarters corporation and/or its domestic casino affiliates, branches, or places of business from consulting with affiliated casinos licensed in other countries *before* a SAR form is filed concerning customer accountholder activity that is occurring among them.

business cannot disclose to each other that a SAR form will be filed. Moreover, after filing, further disclosure of the fact that a SAR was filed is prohibited except as permitted under 31 U.S.C. § 5318(g)(2) and 31 C.F.R. § 103.21(e).

**Question 18: What type of information may a casino or card club disclose in response to a subpoena, summons, or other process issued in civil litigation that involved suspicious activity contained on a filed SARC?**

**Answer 18:** The BSA does not prohibit the disclosure of internal casino or card club records upon which a SARC is based in response to a subpoena, summons, or other process issued in civil litigation, with all the relevant information pertaining to a customer’s gambling activity that occurred at a casino or card club. For example, the prohibition against disclosing a SARC (or information that would reveal the existence of a SARC) would not preclude a casino or card club from disclosing,<sup>57</sup> internal records such as check cashing account, credit account, deposit account, player rating account, slot club account, customer win/loss statements, monetary instrument logs, multiple transaction logs, audio or video tapes, CD-ROM discs, DVD discs, etc., to a private litigant. Similarly, the prohibition against disclosing SARCs would not prevent the disclosure of BSA records of transmittal of funds or negotiable instruments at or in excess of \$3,000. Therefore, whatever information is appropriate and already contained in internal casino or card club records or on other discoverable government records and forms mentioned above can be disclosed in response to a subpoena, summons, or other process issued in civil litigation, except for a SARC form itself or the information that would reveal the existence of the SARC (including any document, memorandum, record, log, or work papers that references a SARC). For assistance with specific requests, please contact FinCEN’s Office of Chief Counsel at (703) 905-3590.

**Question 19: Since a casino is not required to file a CTRC on slot jackpot or video lottery wins, is it required to file a SARC on slot jackpot or video lottery terminal wins that are suspicious?**

**Answer 19:** Yes. If a casino knows, suspects or has reason to suspect that the transaction or pattern of transactions is both suspicious and involves \$5,000 or more (including slot jackpot or video lottery terminal winnings) it must report it as suspicious activity. This is applicable to suspicious activity involving a jackpot win from bingo, Caribbean stud poker, keno, or let it ride poker. The filing requirements pertaining to: (i) IRS Form W-2G, Certain Gambling Winnings; (ii) IRS Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding; or (iii) IRS Forms 1099-Misc, Miscellaneous Income (*e.g.*, pertaining to prizes or awards) are particularly relevant here. *See* 31 C.F.R. § 103.21(a)(2)(i), which states, among other things, that a transaction requires reporting as suspicious if it is “. . . to avoid any transaction reporting requirement under federal law or regulation.” For example, a casino may attempt to complete an IRS Form W-2G or an IRS Form 1042-S for a customer’s slot jackpot or video lottery terminal win of \$5,000 or more and a customer may: (i) fail to provide customer identification; (ii) furnish a legitimate type of identification document that a casino believes is false or altered (*e.g.*, address changed, photograph substituted); (iii) furnish a legitimate type of identification

---

<sup>57</sup> This FAQ does not address the applicability of any other Federal, state, local, or tribal laws or regulations.

document in which the description of the individual does not match the customer's appearance (*e.g.*, different age, height, eye color, gender); (iv) present conflicting identification information (*e.g.*, different address or different spelling or numeration in address; different state driver's license number, or different Social Security Number).

#### **Section D: 31 C.F.R. § 103.36 Casino Recordkeeping Requirements**

**Question 20: When recordkeeping requirements are similar, except for the dollar thresholds, for casinos as well as all financial institutions, which requirements apply to a casino or card club?**

**Answer 20:** Our rules at 31 C.F.R. § 103.33 list certain records that must be made and retained by *all* financial institutions including casinos and card clubs. Rules implementing the BSA also include certain recordkeeping requirements specifically for casinos or card clubs. These are set forth in 31 C.F.R. § 103.36. Where the dollar threshold differs between the two provisions, a casino or card club must keep records based on the lower threshold. For example, 31 C.F.R. § 103.36(b)(4) requires casinos and card clubs to retain a record of each extension of credit in excess of \$2,500, including a customer's identification and the verification of that identification, despite the fact that the requirement regarding extensions of credit in 31 C.F.R. § 103.33(a) is tied to a threshold of more than \$10,000. Also, although the requirements in 31 C.F.R. § 103.33(f) apply to non-bank financial institutions for transmittals of funds in the amount of \$3,000 or more, please note that pursuant to 31 C.F.R. § 103.36(b)(5) casinos and card clubs must retain records for international wire transfers at any monetary value. Therefore, when a casino or card club complies with 31 C.F.R. § 103.36(b)(5),<sup>58</sup> it has satisfied the requirement for 31 C.F.R. § 103.33(f).

**Question 21: If a casino scans or microfilms its player rating records, is it required also to keep the paper copy of the record?**

**Answer 21:** No. The BSA requires the retention of the source records (either the originals or microfilm version, or other copies or reproductions of the documents) of all records required to be retained by 31 C.F.R. Part 103. This would include, among other customer records, records prepared or used to monitor a customer's gaming activity (*e.g.*, player rating records, multiple transaction logs). As a reminder, scanned or microfilmed player rating records must be retained for 5 years and filed or stored in such a way as to be accessible within a reasonable period of time.

**Question 22: Does a casino or card club have to record a customer's permanent address for BSA recordkeeping requirements or is a P.O. Box number acceptable when it appears on a customer's state driver's license or identification card?**

**Answer 22:** To comply with 31 C.F.R. §§ 103.33(f), 103.36(a), 103.36(b)(1), 103.36(b)(4), 103.36(b)(5), and 103.36(b)(9), casinos and card clubs are required to use due diligence

---

<sup>58</sup> Please note that there is no monetary threshold in 31 C.F.R. § 103.36(b)(5).

measures to obtain a customer's permanent address.<sup>59</sup> This means casinos and card clubs are required to obtain and record a customer's permanent address (*i.e.*, permanent street address, city, state name or two-letter state abbreviation used by the U.S. Postal Service, and ZIP code, including any apartment number or suite number and road or road number associated with a permanent address) to comply with these recordkeeping requirements. If a customer is from a foreign country, the state/territory name (or state/territory code) (*i.e.*, Canada and Mexico) and the appropriate country name (or two-letter country code) should be obtained. A casino or card club is required to use all reasonably available information or reasonable alternatives to obtain the needed information to be in compliance with the BSA and should not enter a P.O. Box number unless the customer has no street address. If a customer's state driver's license or identification card contains a P.O. Box number, casinos and card clubs would need to ask a customer for his/her permanent street address. If a customer states he/she has a permanent address, but refuses to provide it, and a casino and card club conducts the transaction, they would not be in compliance with these BSA recordkeeping requirements.<sup>60</sup> However, if a casino or card club uses due diligence to obtain a customer's permanent address<sup>61</sup> and determines that a customer does not have a permanent address, then a casino can record a customer's P.O. Box number without concern of non-compliance with the above BSA recordkeeping requirements. Nonetheless, in the case when a reportable currency transaction occurs, a casino and card club must file a CTRC involving a cash in and/or cash out.

## **Section E: 31 C.F.R. § 103.64(a) Compliance Program Requirements**

### **Question 23: Must a casino's anti-money laundering compliance officer limit his duties to BSA compliance matters?**

**Answer 23:** No. Although the BSA requires financial institutions, including casinos or card clubs, to designate an individual or individuals (*e.g.*, a compliance officer and/or compliance committee) as responsible for ensuring that institution's day-to-day compliance with the BSA, the anti-money laundering program requirement permits flexibility by allowing each compliance program to address the characteristics of a particular casino or card club. Each casino and card club should conduct a risk-based analysis of its business (*e.g.*, type of products and services it

---

<sup>59</sup> See 31 C.F.R. § 103.64(a)(2)(v)(A), which requires the implementation of procedures for using all available information to determine, when required by the BSA, a customer's name, address, Social Security Number, and other identifying information and verification of the same. Therefore, since a casino records information on extensions of credit, for example, it must ensure that the records are complete pursuant to 31 C.F.R. § 103.36(b)(4).

<sup>60</sup> Also, such activity by a customer could be suspicious since it is designed to evade the BSA reporting requirement. See 31 C.F.R. § 103.21(a)(2)(ii).

<sup>61</sup> FinCEN understands that some casinos use the following available information or alternatives to obtain the needed information such as: (i) Federal tax forms filed for certain customers' gambling transactions; (ii) other customer documents such as copies of negotiable instruments (*e.g.*, personal checks); (iii) a reporting agency that provides telephonic or on-line searching of customer identification information for those that applied for casino credit as well as have outstanding casino debts; (iv) public on-line database search engines that do not require a subscription; (v) organizations that provide subscription services to businesses and governmental agencies containing individuals' personal identification information from their commercial databases, or (vi) during subsequent trips when knowledge is obtained about customers' presence through the process of conducting new casino transactions.

offers, the locations it serves, and the nature of its customers) to determine, among other things, whether it needs a full-time BSA compliance officer.

**Question 24: How can a casino’s compliance committee help to assure that a casino complies with the BSA?**

**Answer 24:** Casinos and card clubs are not required under the BSA to establish compliance committees in all instances. Nonetheless, there may be instances in which the risk confronting a casino or a card club would require establishing a BSA compliance committee. FinCEN understands that casinos establish BSA compliance committees as an executive level safeguard to ensure that a casino complies with all applicable laws, regulations, and guidance in a reasonable manner.<sup>62</sup>

**Section F: Other Casino Issues**

**Question 25: What are the civil penalties for non-compliance with BSA recordkeeping and reporting requirements?**

**Answer 25:** FinCEN may seek civil money penalties of \$25,000 a day per violation of any anti-money laundering compliance program requirement. Also, FinCEN may seek: (i) injunctive relief from a court against future violations of the BSA; (ii) civil money penalties of up to \$25,000 or more per reporting violation (not to exceed \$100,000); and (iii) other appropriate relief. In addition, FinCEN may seek civil money penalties (up to the amount of transaction) for structuring, attempting to structure, or assisting in structuring transactions. These civil sanctions are for willful violations<sup>63</sup> and may be applied to any casino or card club that is subject to the BSA, or to any partner, director, officer, or employee of such gaming operations.

\* \* \* \* \*

Questions or comments regarding the contents of this Guidance should be addressed to the FinCEN Regulatory Helpline at 800-949-2732.

---

<sup>62</sup> A BSA compliance committee may be composed of all applicable casino departments such as accounting, cage operations, casino credit, finance, information technology, internal audit, marketing, slot operations, surveillance, and table games. A casino’s BSA compliance officer is usually a member of such a committee. In-house and/or external legal counsel may provide advice to a BSA compliance committee, but is not necessarily a member. A BSA compliance committee may need to schedule regular meetings to establish and monitor a risk-based approach to its business (e.g., type of products and services it offers, the locations it serves, and the nature of its customers).

<sup>63</sup> See 31 U.S.C. §§ 5320 - 5322, and 5324; and 31 C.F.R. §§ 103.57(c), (e), and (f), and 103.63.

---

**Joint Release**

**Financial Crimes Enforcement Network  
Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
National Credit Union Administration  
Office of the Comptroller of the Currency  
Office of Thrift Supervision  
Securities and Exchange Commission**

---

**FIN-2010-G001**

**Issued: March 5, 2010**

**Subject: Guidance on Obtaining and Retaining Beneficial Ownership  
Information**

The Financial Crimes Enforcement Network (FinCEN), along with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Securities and Exchange Commission, are issuing this guidance, in consultation with staff of the Commodity Futures Trading Commission, to clarify and consolidate existing regulatory expectations for obtaining beneficial ownership information for certain accounts and customer relationships. Information on beneficial ownership in account relationships provides another tool for financial institutions to better understand and address money laundering and terrorist financing risks, protect themselves from criminal activity, and assist law enforcement with investigations and prosecutions.

**Background**

The cornerstone of a strong Bank Secrecy Act/Anti-Money Laundering (BSA/AML) compliance program is the adoption and implementation of internal controls, which include comprehensive customer due diligence (CDD) policies, procedures, and processes for all customers, particularly those that present a high risk for money laundering or terrorist financing.<sup>1</sup> The requirement that a financial institution know its customers, and the risks presented by its customers, is basic and fundamental to the development and implementation of an effective BSA/AML compliance program. Specifically, conducting appropriate CDD assists an institution in identifying, detecting, and evaluating unusual or suspicious activity.

In general, a financial institution's CDD processes should be commensurate with its BSA/AML risk, with particular focus on high risk customers. CDD processes should be developed to identify customers who pose heightened money laundering or terrorist

---

<sup>1</sup> This guidance does not alter or supersede previously issued regulations, rulings, or guidance related to Customer Identification Program (CIP) requirements.

financing risks, and should be enhanced in accordance with the institution's assessment of those risks.

Heightened risks can arise with respect to beneficial owners of accounts because nominal account holders can enable individuals and business entities to conceal the identity of the true owner of assets or property derived from or associated with criminal activity. Moreover, criminals, money launderers, tax evaders, and terrorists may exploit the privacy and confidentiality surrounding some business entities, including shell companies and other vehicles designed to conceal the nature and purpose of illicit transactions and the identities of the persons associated with them. Consequently, identifying the beneficial owner(s) of some legal entities may be challenging, as the characteristics of these entities often effectively shield the legal identity of the owner. However, such identification may be important in detecting suspicious activity and in providing useful information to law enforcement.

A financial institution may consider implementing these policies and procedures on an enterprise-wide basis. This may include sharing or obtaining beneficial ownership information across business lines, separate legal entities within an enterprise, and affiliated support units. To encourage cost effectiveness, enhance efficiency, and increase availability of potentially relevant information, AML staff may find it useful to cross-check for beneficial ownership information in data systems maintained within the financial institution for other purposes, such as credit underwriting, marketing, or fraud detection.

### Customer Due Diligence

As part of an institution's BSA/AML compliance program, a financial institution should establish and maintain CDD procedures that are reasonably designed to identify and verify the identity of beneficial owners<sup>2</sup> of an account, as appropriate, based on the institution's evaluation of risk pertaining to an account.<sup>3</sup>

For example, CDD procedures may include the following:

---

<sup>2</sup> The definition of a "beneficial owner" under FinCEN's regulations specific to due diligence programs for private banking accounts and for correspondent accounts for foreign financial institutions is the individual(s) who have a level of control over, or entitlement to, the funds or assets in the account that, as a practical matter, enables the individual(s), directly or indirectly, to control, manage, or direct the account. The ability to fund the account or the entitlement to the funds of the account alone, however, without any corresponding authority to control, manage, or direct the account (such as in the case of a minor child beneficiary), does not cause the individual to be a beneficial owner. This definition may be useful for purposes of this guidance. *See, e.g.*, 31 CFR 103.175(b).

<sup>3</sup> The final rules implementing Section 326 of the USA PATRIOT Act similarly provide that, based on a financial institution's risk assessment of a new account opened by a customer that is not an individual, a financial institution may need to take additional steps to verify the identity of the customer by seeking information about individuals with ownership or control over the account, including signatories. *See, e.g.*, 31 CFR 103.121(b)(2)(ii)(C). In addition, a financial institution may need to look through the account in connection with customer due diligence procedures required under other provisions of its BSA compliance program.

- Determining whether the customer is acting as an agent for or on behalf of another, and if so, obtaining information regarding the capacity in which and on whose behalf the customer is acting.
- Where the customer is a legal entity that is not publicly traded in the United States, such as an unincorporated association, a private investment company (PIC), trust or foundation, obtaining information about the structure or ownership of the entity so as to allow the institution to determine whether the account poses heightened risk.
- Where the customer is a trustee, obtaining information about the trust structure to allow the institution to establish a reasonable understanding of the trust structure and to determine the provider of funds and any persons or entities that have control over the funds or have the power to remove the trustees.

With respect to accounts that have been identified by an institution's CDD procedures as posing a heightened risk, these accounts should be subjected to enhanced due diligence (EDD) that is reasonably designed to enable compliance with the requirements of the BSA. This may include steps, in accordance with the level of risk presented, to identify and verify beneficial owners, to reasonably understand the sources and uses of funds in the account, and to reasonably understand the relationship between the customer and the beneficial owner.

Certain trusts, corporate entities, shell entities,<sup>4</sup> and PICs are examples of customers that may pose heightened risk. In addition, FinCEN rules establish particular due diligence requirements concerning beneficial owners in the areas of private banking and foreign correspondent accounts.

In addition, CDD and EDD information should be used for monitoring purposes and to determine whether there are discrepancies between information obtained regarding the account's intended purpose and expected account activity and the actual sources of funds and uses of the account.

### Private Banking<sup>5</sup>

Under FinCEN's regulations, a "covered financial institution"<sup>6</sup> must establish and maintain a due diligence program that includes policies, procedures, and controls

---

<sup>4</sup> [http://www.fincen.gov/statutes\\_regs/guidance/pdf/AdvisoryOnShells\\_FINAL.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/AdvisoryOnShells_FINAL.pdf)

<sup>5</sup> A "private banking account" is defined in 31 CFR 103.175(o), as an account (or any combination of accounts) maintained at a covered financial institution that: (1) requires a minimum aggregate deposit of funds or other assets of not less than \$1,000,000; (2) is established on behalf of or for the benefit of one or more non-U.S. persons who are direct or beneficial owners of the account; and (3) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a covered financial institution acting as a liaison between the covered financial institution and the direct or beneficial owner of the account. Private banking accounts that do not fit within this definition should be subject to the general CDD procedures, including, as appropriate, EDD procedures discussed above.

<sup>6</sup> 31 CFR 103.175(f)(1).

reasonably designed to detect and report known or suspected money laundering or suspicious activity conducted through or involving private banking accounts. This requirement applies to private banking accounts established, maintained, administered, or managed in the United States.<sup>7</sup> The regulation currently covers private banking accounts at depository institutions, securities broker-dealers, futures commission merchants and introducing brokers in commodities, and mutual funds.

Among other actions, as part of their due diligence program, institutions that offer private banking services must take reasonable steps to ascertain the source(s) of the customer's wealth and the anticipated activity of the account, as well as potentially take into account the geographic location, the customer's corporate structure, and public information.<sup>8</sup> Moreover, reasonable steps must be taken to identify nominal and beneficial owners of private banking accounts.<sup>9</sup> Obtaining beneficial ownership information concerning the types of accounts listed above may require the application of EDD procedures.

Special rules apply for senior foreign political figures.<sup>10</sup> A review of private banking account relationships is required in part to determine whether the nominal or beneficial owners are senior foreign political figures. Covered financial institutions should establish policies, procedures, and controls that include reasonable steps to ascertain the status of a nominal or beneficial owner as a senior foreign political figure. This may include obtaining information on employment status and sources of income, as well as consulting news sources and checking references where appropriate.<sup>11</sup> Accounts for senior foreign political figures require, in all instances, EDD that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.<sup>12</sup>

With regard to private banking accounts, a covered financial institution's failure to take reasonable steps to identify the nominal and beneficial owners of an account generally would be viewed as a violation of the requirements of 31 CFR 103.178.

### Foreign Correspondent Accounts

FinCEN's regulations also require covered financial institutions<sup>13</sup> to establish a due diligence program that includes appropriate, specific, risk-based, and, where necessary,

---

<sup>7</sup> See, generally, 31 CFR 103.178.

<sup>8</sup> See, 31 CFR 103.178 (b)(3) and (b)(4). See also, Federal Financial Institutions Examination Council (FFIEC) Exam Manual, Private Banking - Overview. Although the FFIEC Exam Manual is issued by the federal banking regulators regarding AML requirements applicable to banks, it contains guidance that may be of interest to securities and futures firms.

<sup>9</sup> 31 CFR 103.178(b)(1).

<sup>10</sup> A senior foreign political figure is a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not), senior official of a major foreign political party or a senior executive of a foreign government-owned commercial enterprise, a corporation or other entity formed by or for the benefit of such individuals, or any immediate family member or widely and publically known close associate to such individuals. 31 CFR 103.175(r).

<sup>11</sup> See, e.g., FFIEC Exam Manual, Private Banking Due Diligence Program (Non-U.S. Persons).

<sup>12</sup> 31 CFR 103.178 (b)(2) and (c).

<sup>13</sup> 31 CFR 103.175(f)(1). The definition of covered financial institution discussed above applies to both the private banking and correspondent account regulations.

enhanced policies, procedures and controls that are reasonably designed to detect and report, on an ongoing basis, any known or suspected money laundering activity conducted through or involving any correspondent account<sup>14</sup> established, maintained, administered, or managed in the United States for a *foreign financial institution*.<sup>15</sup> Under these regulations, enhanced due diligence is required for correspondent accounts<sup>16</sup> established, maintained, administered, or managed in the United States, for *foreign banks* that operate under: (1) an offshore banking license; (2) a banking license issued by a country that has been designated as non-cooperative with international anti-money laundering principles or procedures; or (3) a banking license issued by a country designated by the Secretary of the Treasury (under delegation to the Director of FinCEN, and in consultation with the Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission) as warranting special measures due to money laundering concerns.<sup>17</sup> Enhanced due diligence is designed to be risk-based, with flexibility in its implementation to allow covered financial institutions to obtain and retain this information based on risk.

With respect to correspondent accounts for such foreign banks, a covered financial institution's risk-based EDD should obtain information, as appropriate, from the foreign bank about the identity of any person with authority to direct transactions through any correspondent account that is a payable-through account, as well as the source and beneficial owner of funds or other assets in a payable-through account. A payable-through account is a correspondent account maintained by a covered financial institution for a foreign bank by means of which the foreign bank permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.<sup>18</sup> Covered financial institutions may elect to use a questionnaire or conduct a review of the transaction history for the respondent bank in collecting the information required.<sup>19</sup>

Additionally, covered financial institutions<sup>20</sup> are prohibited from opening and maintaining correspondent accounts<sup>21</sup> for foreign shell banks.<sup>22</sup> Covered financial

---

<sup>14</sup> 31 CFR 103.175(d). Generally, a "correspondent account" is defined as an account established for a foreign financial institution to receive deposits from, or to make payments or other disbursements on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution. 31 CFR 103.175(d)(1).

<sup>15</sup> 31 CFR 103.176(a).

<sup>16</sup> For purposes of the enhanced due diligence requirements for certain foreign banks and the foreign shell bank prohibitions discussed herein, a "correspondent account" is defined as an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign bank, or to handle other financial transactions related to such foreign bank. 31 CFR 103.175(d)(1)(ii).

<sup>17</sup> See 31 CFR 103.176(b) and(c) for the full text of this provision. Special Due Diligence Programs for Certain Foreign Accounts, 72 FR 44768-44775 (August 9, 2007).

<sup>18</sup> See, 31 CFR 103.176(b)(1)(iii)(B).

<sup>19</sup> "An Assessment of the Final Rule Implementing Enhanced Due Diligence Provisions for Accounts for Certain Foreign Banks, p. 4. (March 2009).

[http://www.fincen.gov/news\\_room/rp/files/Special\\_Due\\_Diligence\\_Program.pdf](http://www.fincen.gov/news_room/rp/files/Special_Due_Diligence_Program.pdf)

<sup>20</sup> For purposes of the shell bank prohibitions, a covered institution generally includes: U.S. banks, savings associations, credit unions, private bankers, and trust companies; branches and agencies of foreign banks; Edge Act corporations; and securities broker-dealers. 31 CFR 103.175(f)(2).

institutions that offer foreign correspondent accounts must take reasonable steps to ensure the account is not being used to indirectly provide banking services to foreign shell banks.<sup>23</sup> The covered financial institution must identify the owners<sup>24</sup> of foreign banks whose shares are not publicly traded and record the name and address of a person in the United States that is authorized to be an agent to accept service of legal process.<sup>25</sup>

With regard to foreign correspondent accounts, a covered financial institution's failure to maintain records identifying the owners of non-publicly traded foreign banks could be viewed as a violation of the requirements of 31 CFR 103.177.

For questions about this guidance, please contact FinCEN's Regulatory Helpline at (800) 949-2732 or your appropriate regulatory agency.

---

<sup>21</sup> For purposes of the foreign shell bank prohibitions, a "correspondent account" is defined as an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign bank, or to handle other financial transactions related to such foreign bank. 31 CFR 103.175(d)(1)(ii).

<sup>22</sup> See, 31 CFR 103.177.

<sup>23</sup> 31 CFR 103.177(a)(1)(ii).

<sup>24</sup> For purposes of 31 CFR 103.177, "owner" is defined at 31 CFR 103.175(l). Similarly, under the enhanced due diligence provisions of the correspondent account rule, the covered financial institution may need to identify the owners of foreign banks whose shares are not publicly-traded. See, 31 CFR 103.176(b)(3). An "owner" is defined for this purpose to include any person who directly or indirectly owns, controls, or has the power to vote 10 percent or more of any class of securities. See, 31 CFR 103.176(b)(3)(ii).

<sup>25</sup> See 31 CFR 103.177(a)(2).

Jamestown, NY, Chautauqua County/  
Jamestown, Takeoff Minimums and  
Obstacle DP, Amdt 6

Williamson/Sodus, NY, Williamson/Sodus,  
Takeoff Minimums and Obstacle DP, Orig

Clarion, PA, Clarion County, Takeoff  
Minimums and Obstacle DP, Orig

Titusville, PA, Titusville, Takeoff Minimums  
and Obstacle DP, Orig

Wilkes-Barre/Scranton, PA, Wilkes-Barre/  
Scranton Intl, ILS OR LOC/DME RWY 4,  
Amdt 35

Wilkes-Barre/Scranton, PA, Wilkes-Barre/  
Scranton Intl, ILS OR LOC/DME RWY 22,  
Amdt 5

Wise, VA, Lonesome Pine, GPS RWY 6, Orig,  
CANCELLED

Wheeling, WV, Wheeling Ohio CO, VOR  
RWY 21, Amdt 15

Wheeling, WV, Wheeling Ohio CO, ILS OR  
LOC RWY 3, Amdt 21

Wheeling, WV, Wheeling Ohio CO, RNAV  
(GPS) RWY 21, Orig

Wheeling, WV, Wheeling Ohio CO, Takeoff  
Minimums and Obstacle DP, Amdt 3

*Effective 30 AUG 2007*

Albertville, AL, Albertville Rgnl/Thomas J  
Brumlik Fld, Takeoff

Minimums and Obstacle DP, Orig

Russellville, AR, Russellville Regional,  
RNAV (GPS) RWY 7, Orig

Atlanta, GA, Dekalb-Peachtree, RNAV (RNP)  
Z RWY 20L, Orig

Atlanta, GA, Dekalb-Peachtree, RNAV (RNP)  
RWY 2R, Orig

Atlanta, GA, Fulton County Airport-Brown  
Field, RNAV (RNP) Z RWY 8, Orig

Augusta, GA, Augusta Regional at Bush  
Field, ILS OR LOC RWY 35, Amdt 27

Cartersville, GA, Cartersville, RNAV (GPS)  
RWY 19, Amdt 1

Sylvania, GA, Plantation Arpk, RNAV (GPS)  
RWY 5, Orig

Sylvania, GA, Plantation Arpk, RNAV (GPS)  
RWY 23, Orig

Maquoketa, IA, Maquoketa Muni, NDB RWY  
15, Amdt 3, CANCELLED

Chicago/Romeoville, IL, Lewis University,  
RNAV (GPS) RWY 2, Orig

Chicago/Romeoville, IL, Lewis University,  
RNAV (GPS) RWY 9, Orig

Chicago/Romeoville, IL, Lewis University,  
RNAV (GPS) RWY 20, Orig

Chicago/Romeoville, IL, Lewis University,  
RNAV (GPS) RWY 27, Orig

Chicago/Romeoville, IL, Lewis University,  
LOC/DME RWY 9, Amdt 1

Chicago/Romeoville, IL, Lewis University,  
VOR RWY 9, Amdt 3

Chicago/Romeoville, IL, Lewis University,  
GPS RWY 9, Orig, CANCELLED

Chicago/Romeoville, IL, Lewis University,  
GPS RWY 27, Amdt 2, CANCELLED

Chicago/Romeoville, IL, Lewis University,  
Takeoff Minimums and Obstacle DP, Orig

Danville, IL, Vermilion County, RNAV (GPS)  
RWY 3, Orig

Danville, IL, Vermilion County, RNAV (GPS)  
RWY 21, Orig

Danville, IL, Vermilion County, RNAV (GPS)  
RWY 34, Orig

Danville, IL, Vermilion County, VOR/DME  
RWY 3, Amdt 12

Danville, IL, Vermilion County, VOR RWY  
21, Amdt 14

Danville, IL, Vermilion County, VOR/DME  
RNAV OR GPS RWY 34, Amdt 4A,  
CANCELLED

Freeport, IL, Albertus, ILS OR LOC RWY 24,  
Orig

Freeport, IL, Albertus, RNAV (GPS) RWY 6,  
Orig

Freeport, IL, Albertus, RNAV (GPS) RWY 24,  
Amdt 1

Freeport, IL, Albertus, LOC RWY 24, Orig-C,  
CANCELLED

Freeport, IL, Albertus, VOR/DME RNAV OR  
GPS RWY 6, Amdt 5C, CANCELLED

Huntingburg, IN, Huntingburg, NDB RWY 27,  
Amdt 3

Albert Lea, MN, Albert Lea Muni, RNAV  
(GPS) RWY 16, Amdt 1

Roseau, MN, Roseau Muni/Rudy Billberg  
Field, RNAV (GPS) RWY 16, Orig

Roseau, MN, Roseau Muni/Rudy Billberg  
Field, RNAV (GPS) RWY 34, Orig

Roseau, MN, Roseau Muni/Rudy Billberg  
Field, VOR RWY 16, Amdt 8

Roseau, MN, Roseau Muni/Rudy Billberg  
Field, VOR RWY 34, Amdt 1

Roseau, MN, Roseau Muni/Rudy Billberg  
Field, Takeoff Minimums and Obstacle DP,  
Orig

Lee's Summit, MO, Lee's Summit Municipal,  
NDB RWY 18, Amdt 1A, CANCELLED

Lee's Summit, MO, Lee's Summit Municipal,  
NDB RWY 36, Orig, CANCELLED

Batesville, MS, Panola County, Takeoff  
Minimums and Obstacle DP, Orig

Starkville, MS, George M Bryan, RNAV (GPS)  
RWY 36, Amdt 1

Gastonia, NC, Gastonia Muni, RNAV (GPS)  
RWY 3, Amdt 1A

Gastonia, NC, Gastonia Muni, RNAV (GPS)  
RWY 21, Orig-A

Gastonia, NC, Gastonia Muni, VOR/DME OR  
GPS-A, Amdt 4, CANCELLED

Findlay, OH, Findlay, RNAV (GPS) RWY 18,  
Amdt 1

Findlay, OH, Findlay, RNAV (GPS) RWY 25,  
Amdt 1

Findlay, OH, Findlay, RNAV (GPS) RWY 36,  
Amdt 1

Findlay, OH, Findlay, Takeoff Minimums  
and Obstacle DP, Orig

Hamilton, OH, Butler Co Rgnl, ILS OR LOC  
RWY 29, Amdt 1

Hamilton, OH, Butler Co Rgnl, RNAV (GPS)  
RWY 11, Orig

Hamilton, OH, Butler Co Rgnl, RNAV (GPS)  
RWY 29, Orig

Hamilton, OH, Butler Co Rgnl, GPS RWY 11,  
Orig, CANCELLED

Hamilton, OH, Butler Co Rgnl, GPS RWY 29,  
Amdt 2, CANCELLED

Hamilton, OH, Butler Co Rgnl, NDB-A, Amdt  
3, CANCELLED

Marion, OH, Marion Muni, RNAV (GPS)  
RWY 7, Orig

Marion, OH, Marion Muni, RNAV (GPS)  
RWY 25, Orig

Marion, OH, Marion Muni, VOR-A, Amdt 1

Marion, OH, Marion Muni, GPS RWY 25,  
Orig-B, CANCELLED

Marion, OH, Marion Muni, Takeoff  
Minimums and Obstacle DP, Orig

Fairview, OK, Fairview Muni, NDB RWY 17,  
Amdt 4, CANCELLED

Salem, OR, McNary Fld, RNAV (GPS) Y RWY  
31, Orig-A

Salem, OR, McNary Fld, RNAV (GPS) Z RWY  
31, Amdt 1A

Salem, OR, McNary Fld, LOC BC RWY 13,  
Amdt 6D

Salem, OR, McNary Fld, LOC/DME RWY 31,  
Amdt 2B

Pierre, SD, Pierre Regional, RNAV (GPS)  
RWY 7, Amdt 2

Pierre, SD, Pierre Regional, RNAV (GPS)  
RWY 13, Amdt 2

Pierre, SD, Pierre Regional, RNAV (GPS)  
RWY 25, Amdt 2

Amarillo, TX, Rick Husband Amarillo Intl,  
Takeoff Minimums and Obstacle DP,  
Amdt 1

Canadian, TX, Hemphill County, Takeoff  
Minimums and Obstacle DP, Amdt 2

Beaver, UT, Beaver Muni, RNAV (GPS)-A,  
Orig

Beaver, UT, Beaver Muni, Takeoff Minimums  
and Obstacle DP, Orig

Ogden, UT, Ogden-Hinckley, ILS OR LOC  
RWY 3, Amdt 4A

Seattle, WA, Seattle-Tacoma Intl, ILS OR  
LOC/DME RWY 34R, Orig-E, ILS RWY 34R  
(CAT II)

Shawno, WI, Shawno Muni, Takeoff  
Minimums and Obstacle DP, Amdt 2

*Effective 25 OCT 2007*

Logansport, IN, Logansport/Cass County,  
NDB RWY 9, Amdt 2A, CANCELLED

[FR Doc. E7-12122 Filed 6-25-07; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**31 CFR Part 103**

**RIN 1506-AA84**

**Financial Crimes Enforcement  
Network; Amendments to Bank  
Secrecy Act Regulations Regarding  
Casino Recordkeeping and Reporting  
Requirements**

**AGENCY:** Financial Crimes Enforcement  
Network, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Financial Crimes  
Enforcement Network (FinCEN) is  
issuing this final rule to amend the Bank  
Secrecy Act regulation requiring casinos  
to report transactions in currency.  
Specifically, the amendments exempt,  
as reportable transactions in currency,  
jackpots from slot machines and video  
lottery terminals, as well as  
transactions, under certain conditions,  
involving certain money plays and bills  
inserted into electronic gaming devices.  
We also are exempting certain  
transactions between casinos and  
currency dealers or exchangers, and  
casinos and check cashers. Finally, the  
amendments provide additional  
examples of "cash in" and "cash out"  
transactions.

**DATES:** *Effective Date:* June 26, 2007.

**FOR FURTHER INFORMATION CONTACT:**  
Regulatory Policy and Programs

Division, Financial Crimes Enforcement Network, (800) 949-2732.

#### SUPPLEMENTARY INFORMATION:

### I. Background

#### A. Statutory and Regulatory Background

The Director of FinCEN is the delegated administrator of the Bank Secrecy Act.<sup>1</sup> The Bank Secrecy Act authorizes the Director to issue regulations that require all financial institutions defined as such in the Bank Secrecy Act to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism and to prevent, deter, and detect money laundering.<sup>2</sup>

Casinos are cash-intensive businesses that also offer a broad array of financial services. These services include providing customer deposit or credit accounts, transmitting and receiving funds transfers directly from other financial institutions, check cashing, and currency exchanging. Consequently, casinos offer services that are similar to and may serve as substitutes for services ordinarily provided by depository institutions and certain non-bank financial institutions. As such, casinos are vulnerable to abuse by money launderers, terrorist financiers, and tax evaders.

In general, state-licensed casinos were made subject to the Bank Secrecy Act by regulation in 1985.<sup>3</sup> The 1985 rulemaking was based on the authority of the Secretary of the Treasury to designate as financial institutions for Bank Secrecy Act purposes: (i) Businesses that engage in activities that are “similar to, related to, or a substitute for” the activities of businesses defined as “financial institutions”<sup>4</sup> in the Bank Secrecy Act and (ii) other businesses “whose cash transactions have a high

degree of usefulness in criminal, tax, or regulatory matters.”<sup>5</sup> Congress later explicitly added casinos and other gaming establishments to the definition of “financial institution” in the Bank Secrecy Act.<sup>6</sup> Casinos authorized to conduct business under the Indian Gaming Regulatory Act became subject to the Bank Secrecy Act by regulation in 1996,<sup>7</sup> and card clubs became subject to the Bank Secrecy Act by regulation in 1998.<sup>8</sup>

#### B. Casino Currency Transaction Reporting Requirements

Regulations under the Bank Secrecy Act define a “transaction in currency” as any transaction “involving the physical transfer of currency from one person to another.”<sup>9</sup> Casinos must report each transaction in currency involving “cash in” or “cash out” of more than \$10,000,<sup>10</sup> and are required to aggregate transactions in currency (that is, treat the transactions as a single transaction) if the casino has knowledge that the transactions are conducted by or on behalf of the same person and result in cash in or cash out of more than \$10,000 during any gaming day.<sup>11</sup> The rule requiring casinos to report transactions in currency also lists examples of transactions in currency involving cash in and cash out.<sup>12</sup>

Casinos must report transactions in currency by filing FinCEN Form 103—“Currency Transaction Report by Casinos.” A casino must record on the

<sup>5</sup> See 31 U.S.C. 5312(a)(2)(Y) and (Z).

<sup>6</sup> Section 409 of the Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325. The definition of “financial institution” currently reads in relevant part as follows:

(2) Financial institution means—

\* \* \* \* \*

(X) A casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which—

(i) Is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) Is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act); \* \* \* 31 U.S.C. 5312(a)(2)(X).

<sup>7</sup> See 61 FR 7054 (Feb. 23, 1996).

<sup>8</sup> See 63 FR 1919 (Jan. 13, 1998). Card clubs generally are subject to the same rules as casinos, unless a different treatment for card clubs is explicitly stated in our rules. Therefore, for purposes of this rulemaking, and unless the context indicates otherwise, the term “casino” refers to both casinos and to card clubs.

<sup>9</sup> See 31 CFR 103.11(ii)(2).

<sup>10</sup> See 31 CFR 103.22(b)(2).

<sup>11</sup> See 31 CFR 103.22(c)(3).

<sup>12</sup> See 31 CFR 103.22(b)(2)(i) and (ii). The list is not exhaustive. The terms cash in and cash out refer to direction—currency to the casino in the case of cash in transactions, and currency from the casino in the case of cash out transactions.

Currency Transaction Report identifying information for persons involved in the transaction, verify identifying information, and include information describing the transaction.<sup>13</sup> In addition, a casino must file the report within 15 days following the date of the reportable transaction and retain a copy of the report for a period of five years from the date of the currency transaction(s).<sup>14</sup>

### II. Notice of Proposed Rulemaking

The final rule contained in this document is based on the Notice of Proposed Rulemaking published March 21, 2006 (“Notice”).<sup>15</sup> The Notice proposed to exempt from coverage of the rule requiring casinos to file Currency Transaction Reports: (i) Jackpots from slot machines and video lottery terminals, (ii) certain transactions between casinos and currency dealers or exchangers, and (iii) certain transactions between casinos and check cashers. Also, the Notice proposed to provide additional examples of cash in and cash out transactions.

### III. Comments on the Notice—Overview and General Issues

The comment period for the Notice of Proposed Rulemaking ended on May 22, 2006. We received a total of 16 comment letters. Of these, five were submitted by casinos, two by casino trade associations, seven by agencies representing state or tribal governments, one by a casino gaming equipment manufacturer, and one by an agency of the United States Government.

There was strong support for exempting the following transactions from the requirement to file Currency Transaction Reports: (i) Jackpots from slot machines and video lottery terminals, (ii) certain transactions between casinos and currency dealers or exchangers, and (iii) certain transactions between casinos and check cashers. In addition, commenters were generally supportive of nine of the eleven additional examples of cash in and cash out transactions.

The following two proposed amendments received extensive comment: (i) The addition of “money plays” as “bets of currency” and

<sup>13</sup> See FinCEN Form 103; 31 CFR 103.27(d) and 103.28.

<sup>14</sup> FinCEN Form 103 must be sent either through regular mail within 15 calendar days from the date of the transaction(s) (see 31 CFR 103.27) to the IRS Detroit Computing Center’s address found in the instructions to this form or electronically within 25 calendar days from the date of the currency transaction(s) through FinCEN’s BSA Direct E-Filing System.

<sup>15</sup> See 71 FR 14129 (March 21, 2006).

<sup>1</sup> The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Pub. L. 91-508, as amended, is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332.

<sup>2</sup> Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (“USA PATRIOT”) Act of 2001, Pub. L. 107-56 (Oct. 26, 2001).

<sup>3</sup> See 50 FR 5065 (Feb. 6, 1985). Casinos with gross annual gaming revenue not exceeding \$1 million were, and continue to be, excluded from requirements otherwise applicable to casinos and card clubs.

<sup>4</sup> The Bank Secrecy Act defines the term “financial institution” at 31 U.S.C. 5312(a)(2).

therefore as examples of cash in transactions; and (ii) the addition of bills inserted into electronic gaming devices as an example of a cash in transaction. A discussion of the comments follows in the section-by-section analysis below.

#### IV. Section-by-Section Analysis

##### A. Jackpots From Slot Machines and Video Lottery Terminals— 103.22(b)(2)(ii)(E) and 103.22(b)(2)(iii)(D)

As we explained in the Notice, jackpots from slot machines and video lottery terminals account for a significant portion of Currency Transaction Reports filed by casinos. Absent fraud or abuse of the slot machine or video lottery terminal, a customer<sup>16</sup> who wins more than \$10,000 in jackpots at a slot machine or video lottery terminal generally will have won those funds solely because of the workings of the random number generator in the slot machine or in a central computer that is networked with the video lottery terminal. Accordingly, the jackpots are not likely to form part of a scheme to launder funds through the casino. Moreover, casinos are required to file federal income tax forms with the Internal Revenue Service on jackpots of \$1,200 or more; therefore, jackpots from slot machines and video terminals are not likely to form part of a scheme to evade taxes.

The commenters agreed with modifying 103.22(b)(2) to delete the reference to slot jackpots as reportable cash out transactions in currency. In addition, the commenters were nearly unanimous in asserting that this deletion would have no negative impact on law enforcement investigations.

We are adopting the proposed amendments regarding slot machine and video terminal jackpots without change. Thus, the final rule amends 103.22(b)(2)(ii)(E) by removing the reference to “slot jackpots” from the examples of cash out transactions, and adding paragraph 103.22(b)(2)(iii)(D), which exempts jackpots from slot machines and video lottery terminals as reportable cash out transactions.

##### B. Transactions With Currency Dealers or Exchangers and Check Cashers— 103.22(b)(2)(iii)(A)

As described above, existing regulations require a casino to file a Currency Transaction Report for cash in or cash out transactions in excess of \$10,000 conducted between casinos and currency dealers or exchangers, and

between casinos and check cashers.<sup>17</sup> In the Notice, FinCEN stated its view that as long as these currency transactions are conducted pursuant to a contractual or other arrangement with a casino covering those services in sections 103.22(b)(2)(i)(H), 103.22(b)(2)(ii)(G), and 103.22(b)(2)(ii)(H), these currency transactions should not be subject to a casino’s currency transaction reporting requirements. Requiring a casino to file Currency Transaction Reports for these transactions, which do not pose a significant money laundering risk, would result in duplicative reports, since currency dealers or exchangers and check cashers are already required to file Currency Transaction Reports on them.<sup>18</sup> Accordingly, we believe that Currency Transaction Reports filed by casinos on these transactions do not have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

Commenters generally supported the proposed amendment,<sup>19</sup> and we are adopting it without change. Thus, the final rule amends 103.22(b)(2) by exempting certain transactions with currency dealers or exchangers and check cashers as reportable transactions for currency transaction reporting purposes.

##### C. Other Amendments

1. *Purchases of chips, tokens, and other gaming instruments—*  
103.22(b)(2)(i)(A). We proposed to amend 103.22(b)(2)(i)(A) by removing the reference to “plaques,” another name for a high value chip, and including a reference to “other gaming instruments.” A “gaming instrument” would include any casino-issued financial product that is used to facilitate a gaming transaction (e.g., high dollar denomination plaques used in playing baccarat games and cheques used in playing roulette), including those associated with a particular customer.

Fewer than half of the commenters addressed this proposal, but they agreed generally with broadening the category of casino-issued financial products that

<sup>17</sup> Since July 1997, the instructions to FinCEN Form 103 have included language excluding transactions with currency dealers or exchangers, as well as transactions with check checkers. The language will be revised to reflect the language in 103.22(b)(2)(iii)(A).

<sup>18</sup> This amendment does not affect the obligations of currency dealers or exchangers and check cashers under the rule requiring these businesses to file Currency Transaction Reports. See 31 CFR 103.22(b)(2).

<sup>19</sup> One commenter suggested that FinCEN consider additional exclusions for transactions between casinos and other entities that also may result in duplicative filings. Such transactions are not addressed in the final rule.

facilitate gaming transactions. One commenter asked for clarification about whether the purchase of a casino “smart card” would represent the purchase of a gaming instrument. If the customer must establish a personal identification number (PIN) and an account number prior to receiving a casino smart card, it is FinCEN’s view that the casino should treat the transaction as a form of “front money deposit,” and not the purchase of a gaming instrument.<sup>20</sup> FinCEN is adopting the proposed amendment without change.

2. *Bets of currency, including money plays—*  
103.22(b)(2)(i)(E). Under the existing regulations, a bet of currency is listed as an example of a cash in transaction.<sup>21</sup> Our Notice included an explicit reference to money plays as bets of currency. In a money play, a customer places currency on the table prior to the beginning of play. The dealer does not exchange the currency for chips, and the currency is not placed in a table “drop-box” unless the customer loses the wager. Our Notice stated that a money play is a transaction in currency involving cash in regardless of whether the customer wins or loses the wager.<sup>22</sup> Under current non-federal regulations, money plays are only permitted in Mississippi, Nevada, and certain gaming tribal jurisdictions. Within those few jurisdictions, money plays represent a comparatively small number of bets.

Most of the comments on this proposed amendment disagreed with including money plays as an example of bets of currency that are reportable as cash in transactions. Commenters argued that a money play is a transaction in currency only to the extent the customer loses the wager and the dealer places the currency in a drop-box. Commenters contended that when a customer wins a money play there occurs no physical transfer of currency—from the customer to the casino, or from the casino to the customer. Commenters also argued that a money play in which the customer wins the wager involves no conversion of funds and therefore poses no risk of money laundering.

Commenters also noted that treating money plays as bets of currency could result in Currency Transaction Reports that they believe are misleading. For example, if a customer wins a money play, the currency wagered would be returned to the customer and also

<sup>20</sup> See 31 CFR 103.22(b)(2)(i)(B).

<sup>21</sup> See 31 CFR 103.22(b)(2)(i)(E).

<sup>22</sup> We reached the same conclusion in FinCEN Ruling FIN-2006-R002—A Cash Wager on Table Game Play Represents a “Bet of Currency,” (March 24, 2006).

<sup>16</sup> See 31 CFR 103.64(b)(3).

treated as a cash out transaction even though the transaction involved the same currency the customer used to make the money play. Similarly, if a customer wins a money play at a table and re-bets the same currency at the table, two cash in transactions that may need to be aggregated would occur, with the result that the customer would appear to have brought more money into the casino than in fact is the case.

FinCEN continues to maintain that money plays at a table game are bets of currency, regardless of whether the customer wins, and that these are cash in transactions under Bank Secrecy Act regulations once the customer can no longer retrieve the bet.<sup>23</sup> We are, however, exempting money plays to the extent the customer wagers the same physical currency that the customer wagered on a prior money play on the same table game, and the customer has not departed from the table. We have also concluded that when a customer wins a money play wager, the currency won would be a cash out transaction. However, since the currency used to place the wager is the same physical currency received when the customer wins the bet, we are exempting such cash out transactions from the currency transaction reporting requirements.

Therefore, the final rule amends 103.22(b)(2)(i)(E), as proposed, to include money plays as bets of currency. Further, the final rule amends proposed 103.22(b)(2)(iii) by excluding from cash out transactions the currency won in a money play when that currency is the same as the currency wagered in the money play. In addition, the final rule excludes from cash in transactions, currency wagered in a money play to the extent it is the same physical currency the customer previously wagered in a money play on the same table game without leaving the table.<sup>24</sup>

<sup>23</sup> Even though a money play may not involve the conversion of funds and therefore poses no risk of money laundering, information about large amounts of currency wagered in money plays can be highly useful in other criminal investigations or in tax investigations.

<sup>24</sup> Thus, for example, if a customer wagers \$4,000 in currency on a table game, wins, and immediately rebets the currency, there is no aggregation of those bets. The exemption is not, however, intended to exclude from currency transaction reporting an amount over \$10,000 simply because the customer previously bet the currency. Therefore, if a customer bets \$4,000 in currency on a table game, wins, and immediately re-bets the \$4,000 together with an additional \$7,000 in currency, for a total wager of \$11,000, the customer would be treated as making a single transaction involving more than \$10,000. This means that when a customer increases a subsequent cash bet, at the same table game without departing, the increase in the amount of the currency bet would represent a new bet of currency and a transaction in currency.

3. *Bills inserted into electronic gaming devices—103.22(b)(2)(i)(I)*. In the Notice, we proposed to amend 103.22(b)(2)(i)(I) by including bills inserted into electronic gaming devices as an example of a cash in transaction. “Electronic gaming devices” would include slot machines and video lottery terminals.

This proposal generated the most comments. All commenters on this proposal, except for one, asserted that slot machines and other electronic gaming devices pose a low risk for money laundering activity and that FinCEN’s proposal to include bills inserted into electronic gaming devices as a type of reportable cash in transaction should be rejected.

Most commenters observed that, contrary to FinCEN’s assertion, existing business practices and records would not adequately report bills inserted into electronic devices, in part because most systems capture play only for customers who are using a club card.<sup>25</sup> According to the commenters, it is not the industry norm to require customers to be cardholders in order to play slot machines. In fact, several commenters indicated that uncarded play represents between 40–50 percent of all play. The majority of commenters also pointed out that the data gathered by tracking the play of cardholders may be misleading, incomplete and inaccurate for several reasons. First, there is no way for casinos to ensure that a patron is actually the person using his or her card, since patrons may share cards with friends and family, or inadvertently leave a card in a machine resulting in the next player’s bills being attributed incorrectly to the previous patron.<sup>26</sup> According to the commenters, this situation may result in flawed per-customer totals and lead to the filing of erroneous Currency Transaction

<sup>25</sup> A club card (also called “player card”) is a card issued by a casino to customers who wish to establish an account with and become members of that casino’s “player club.” Such cards, aside from serving as marketing devices, allow casinos to track the play associated with the card in exchange for which the cardholder is eligible for certain privileges and/or rewards. To become a member of a player club, a customer must provide or present identification. The customer’s computerized slot account record typically contains the customer’s name, permanent address, date of birth, and sometimes additional identification information.

<sup>26</sup> While casinos may not be able to ensure that customers do not deliberately or intentionally share slot or club cards, casinos may have strong reasons independent of the Bank Secrecy Act to prevent such sharing. Casinos often rely on slot or club cards as internal marketing tools to identify customers who engage in frequent or substantial gaming activity, and to encourage continued patronage through the awarding of “complimentaries.” It is FinCEN’s understanding that many casinos, in fact, have policies that prohibit the sharing of slot or club cards.

Reports. Second, even for those casinos that have systems in place to track slot play, commenters indicate that the industry standard is to capture a total amount of cash in per player, which includes not just bills inserted but also any credits earned. The commenters as a group (including a company that designs, produces, programs, installs, services and operates gaming machines in the United States) asserted that the development of a system to capture the data sought would take significant time and resources. In addition, the commenters observed that such a system would deter money laundering by cardholders only, a group unlikely to engage in money laundering activity given that they must provide identification as a prerequisite to obtaining a card.

Several commenters noted that, while electronic gaming devices generally present low risk for money laundering activity to begin with (given the relatively labor-intensive process of inserting bills one at a time), potential safeguards already exist to prevent such activity. For example, according to the commenters, casino personnel are already trained to file a Suspicious Activity Report in such situations or in situations where a customer appears to be “fast-feeding” a machine.

Several commenters also expressed concern that the proposal would generate confusion when compared with guidance issued by FinCEN in February 2005 regarding the “knowledge” requirement.<sup>27</sup> One commenter requested clarification from FinCEN regarding the knowledge requirement and suggested that FinCEN limit the knowledge of transactions to “contemporaneous knowledge,” with the result that a transaction would be reportable if an employee is aware of the activity as it is happening. Other commenters observed that even casinos that are able to track data associated with electronic gaming devices still will not have “knowledge” that a player has inserted currency into a machine because casino data systems do not generate a record of player identity and the amount of currency inserted.

We note that the amendment would not have changed the existing obligations of casinos to report currency transactions. Under our existing rules, customers inserting currency into electronic gaming devices are conducting “cash in” transactions. Further, the amendment would not have

<sup>27</sup> See FinCEN Ruling 2005–1—Currency Transaction Reporting: Aggregation by Casinos at Slot Machines, (Feb. 7, 2005) (“FinCEN Ruling 2005–1”).

created any new recordkeeping or aggregation requirements.<sup>28</sup> For purposes of determining whether to aggregate multiple transactions involving the insertion of currency into slot machines and other electronic gaming devices and file Currency Transaction Reports, the existing knowledge standard continues to apply. Under 31 CFR 103.22(c)(3) multiple transactions are treated as a single transaction if the casino has knowledge that the transactions are by or on behalf of any person and result in cash in totaling more than \$10,000 during any gaming day. A casino has knowledge if its officers, directors, or employees have knowledge that multiple currency transactions have occurred, including knowledge from examining records which contain information that such multiple currency transactions have occurred. As explained in FinCEN Ruling 2005–1, the mere existence of information in the records would not represent knowledge of the information by the casino; rather an officer, director, or employee must have knowledge of the information, which could be obtained by observation of a patron's activity or by examination of the casino's records.<sup>29</sup>

Accordingly, the final rule retains the specific reference to "bills inserted into electronic gaming devices" as an example of cash in transactions. However, the final rule expressly exempts from reporting requirements with respect to multiple transactions the insertion of currency into an electronic gaming device unless the casino has knowledge that this activity gives rise to a reportable currency transaction, in which case this exemption would not apply.

4. *Redemptions of chips, tokens, tickets and other gaming instruments—103.22(b)(2)(ii)(A)*. We proposed to amend 103.22(b)(2)(ii)(A) by removing the reference to plaques and including a reference to "tickets and other gaming instruments." A "ticket" is a document issued by a slot machine, video lottery terminal, or a pari-mutuel clerk to a customer as a record of either a wager

or the insertion or transfer of funds.<sup>30</sup> A customer can wager a ticket at a machine or terminal that accepts tickets, or redeem a ticket for currency at a cage, slot booth, redemption kiosk, or pari-mutuel window. A gaming instrument would encompass any casino-issued financial product that is used to facilitate a gaming transaction.

We received six comments on the proposal. Only one commenter opposed the proposal. The commenter opposing the proposal raised concerns relating to the identification of patrons that redeem tickets at kiosks or terminals.<sup>31</sup> The commenter's concerns notwithstanding, the amendment would not have changed the obligations of casinos under our rules, and we are adopting the amendment as proposed.

5. *Payments by a casino to a customer based on receipt of funds through wire transfers—103.22(b)(2)(ii)(F)*. We proposed to amend 103.22(b)(2)(ii)(F) pertaining to payments in currency by a casino to a customer based on receipt of funds through a wire transfer. Specifically, we proposed to delete the phrase "for credit to a customer" because the reference to credit for this type of cash transaction has been confusing for some casinos. We received one comment to this amendment, which agreed with the revision. We are, therefore, adopting the amendment as proposed.

6. *Travel and complimentary expenses and gaming incentives—103.22(b)(2)(ii)(I)*. In the Notice, we proposed to amend 103.22(b)(2)(ii)(I) by replacing the term "entertainment" with the term "complimentary,"<sup>32</sup> and by adding the phrase "gaming incentives."

<sup>30</sup> Tickets are voucher slips printed with the name and the address of the gaming establishment, the stated monetary value of the ticket, date and time, number or other information identifying the machine or terminal, ticket number, and a unique bar code. Tickets are a casino bearer "IOU" instrument. Slot machines or video lottery terminals that print tickets are commonly known as "ticket in/ticket out" or "TITO."

<sup>31</sup> Many casinos offer multi-function customer kiosk machines, connected to a gateway or kiosk server, that can perform a variety of financial transactions, such as redeeming slot machine/video lottery tickets for currency, exchanging U.S. currency for U.S. currency (*i.e.*, breaking bills or paper money), redeeming player slot club points, and initiating electronic transfers of money to or from a wagering account including currency withdrawals on automated teller machines. It is also known as a "redemption kiosk." The redemption of tickets at kiosks or terminals is a cash out transaction to the extent funds are redeemed in the form of currency. While the tickets redeemed at kiosks or terminals do not contain the customer's name or any account number, it is FinCEN's understanding that customers usually are limited to redeeming tickets valued at no more than \$3,000 at a kiosk or terminal.

<sup>32</sup> Although complimentary items typically are goods or services that a casino gives to a customer,

Most of the comments on this amendment agreed with the revision.<sup>33</sup> One commenter, however, argued that the revision was unnecessary because travel and complimentary expenses, which according to the commenter are already regulated by state and tribal authorities, present little opportunity for money laundering, tax evasion, or terrorist financing. While it is true that these expenses also are regulated at the state and tribal level, many transactions involving casinos that we regulate are regulated by other governmental authorities. In addition, we disagree that the risks associated with travel and complimentary expenses are as minimal as the commenter asserts. FinCEN is, therefore, adopting the amendment as it was proposed in keeping with our stated intention to update and clarify the categories of reportable cash out transactions.

7. *Payments for tournaments, contests, and other promotions—103.22(b)(2)(ii)(J)*. In the Notice, we proposed to amend 103.22(b)(2)(ii)(J) by adding "payments for tournaments, contests, or other promotions" as examples of cash out transactions.

Most of the comments on this amendment also agreed with the revision. One commenter, however, argued that the addition of this example was unjustified. According to the commenter, there is a small likelihood that tournaments, contests, or promotions would factor into any scheme to launder money, evade taxes, or finance terrorism. FinCEN was not persuaded by these arguments and is adopting the proposed amendment in keeping with its stated intention to update and clarify the categories of reportable cash out transactions.

## V. Revision of FinCEN Form 103

To assist casinos and card clubs in completing FinCEN Form 103, Currency Transaction Report by Casinos, FinCEN is providing the following guidance for items affected by this final rule. Slot jackpots are no longer required to be reported in item 31d (or elsewhere on the form). Money play bets are reported as cash in transactions in item 30d ("currency wager(s)"). Bills inserted into electronic gaming devices are reported as cash in transactions in item

at reduced or no cost, based on significant play, they can also be in the form of currency.

<sup>33</sup> One commenter asked for a clarification of the exclusion of complimentary player meals, coupons, and redemption of club points for merchandise. As long as a casino does not provide currency to customers that have player rating or slot club accounts for purchasing meals or merchandise, or redeeming coupons, then these redemptions are exempted from currency transaction reporting requirements.

<sup>28</sup> Thus, for example, the proposal would not have required casinos to create multiple transaction logs or develop or upgrade systems for processing or capturing information.

<sup>29</sup> Moreover, as we described in FinCEN Ruling 2005–1, a casino could gain knowledge for currency transaction reporting purposes in the course of complying with its other obligations under the Bank Secrecy Act. ("[K]nowledge for purposes of 31 CFR 103.22(c)(3) includes knowledge acquired in complying with other requirements under the Bank Secrecy Act—including the requirement to report suspicious transactions, and requirements that related to Bank Secrecy Act compliance or anti-money laundering programs.")

30h (“other (specify)”), with the words “bills inserted in EGDs” in the space immediately following “(specify)”. The redemptions of tickets are reported as cash out transactions in item 31a (“redemptions of casino chips, tokens and other gaming instruments”). Casinos may continue to use the current version of Form 103 if they complete it in accordance with this guidance. However, FinCEN is posting on its website a revised copy of Form 103 with minor editorial changes to reflect this guidance along with updated instructions to reflect the exemptions contained in § 103.22(b)(2)(iii) in this final rule.

#### VI. Executive Order 12866

The Department of the Treasury has determined that this rule is not a significant regulatory action under Executive Order 12866.

#### VII. Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities, since the regulatory reporting threshold excludes casinos whose gross annual gaming revenues do not exceed \$1 million. In addition, the final rule exempts previously reportable transactions, such as jackpots from slot machines and video lottery terminals, as well as cash out transactions involving certain money plays, from the final rule’s reporting obligations.

#### VIII. Effective Date

This rule is being made effective without a delayed effective date in accordance with 5 U.S.C. 553(d)(1).

#### List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (government agencies), Banks and banking, Currency, Gambling, Indian gaming, Investigations, Law enforcement, Reporting and recordkeeping requirements.

#### Authority and Issuance

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is hereby amended as follows:

#### PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FINANCIAL TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

- 2. Section 103.22 is amended by:
    - A. Revising paragraphs (b)(2)(i)(A), (E), (G), and (H), and adding a new paragraph (b)(2)(i)(I);
    - B. Revising paragraphs (b)(2)(ii)(A), (E), (F), (H), and (I), and adding a new paragraph (b)(2)(ii)(J); and
    - C. Adding a new paragraph (b)(2)(iii).
- The revisions and additions read as follows:

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

- \* \* \* \* \*
- (b) \* \* \*
- (2) \* \* \*
- (i) \* \* \*
- (A) Purchases of chips, tokens, and other gaming instruments; \* \* \*
- (E) Bets of currency, including money plays; \* \* \*
- (G) Purchases of a casino’s check;
- (H) Exchanges of currency for currency, including foreign currency; and
- (I) Bills inserted into electronic gaming devices.
- (ii) \* \* \*
- (A) Redemptions of chips, tokens, tickets, and other gaming instruments; \* \* \*
- (E) Payments on bets;
- (F) Payments by a casino to a customer based on receipt of funds through wire transfers; \* \* \*
- (H) Exchanges of currency for currency, including foreign currency;
- (I) Travel and complimentary expenses and gaming incentives; and
- (J) Payment for tournament, contests, and other promotions.
- (iii) Other provisions of this part notwithstanding, casinos are exempted from the reporting obligations found in §§ 103.22(b)(2) and (c)(3) for the following transactions in currency or currency transactions:
- (A) Transactions between a casino and a currency dealer or exchanger, or between a casino and a check casher, as those terms are defined in § 103.11(uu), so long as such transactions are conducted pursuant to a contractual or other arrangement with a casino covering the financial services in §§ 103.22(b)(2)(i)(H), 103.22(b)(2)(ii)(G), and 103.22(b)(2)(ii)(H);
- (B) Cash out transactions to the extent the currency is won in a money play and is the same currency the customer wagered in the money play, or cash in transactions to the extent the currency is the same currency the customer previously wagered in a money play on the same table game without leaving the table;
- (C) Bills inserted into electronic gaming devices in multiple transactions (unless a casino has knowledge

pursuant to § 103.22(c)(3) in which case this exemption would not apply); and

(D) Jackpots from slot machines or video lottery terminals.

\* \* \* \* \*

Dated: June 20, 2007.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. E7–12332 Filed 6–25–07; 8:45 am]

**BILLING CODE 4810–02–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–07–079]

RIN 1625–AA00

#### Safety Zone; Foundation Amistad Fireworks, East Hampton, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Foundation Amistad Fireworks in East Hampton, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

**DATES:** This rule is effective from 8:30 p.m. on July 14, 2007 until 10:30 p.m. on July 15, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–079 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard did not receive an Application for Approval of Marine Event for this

and historic resources.<sup>5</sup> SEA will issue an environmental assessment (EA) by March 23, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Conrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Conrail's filing of a notice of consummation by March 18, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: March 11, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Kulunie L. Cannon,**  
Clearance Clerk.

[FR Doc. E9-5612 Filed 3-17-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Proposed Collection; Comment Request; Currency Transaction Report by Casinos

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a proposed extension, without change, of an existing information collection requirement contained in the form, "Currency Transaction Report by Casinos, FinCEN Form 103." This request for comments is being made

pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

**DATES:** Written comments are welcome and must be received on or before May 18, 2009.

**ADDRESSES:** Written comments should be submitted to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: Paperwork Reduction Act Comments—Currency Transaction Report by Casinos Form. Comments also may be submitted by electronic mail to the following Internet address: [regcomments@fincen.gov](mailto:regcomments@fincen.gov), again with a caption, in the body of the text, "Attention: Paperwork Reduction Act Comments—Currency Transaction Report by Casinos Form."

*Inspection of comments.* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905-5034 (Not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy and Programs Division at (800) 949-2732, Option 4

#### SUPPLEMENTARY INFORMATION:

*Title:* Currency Transaction Report by Casinos.

*OMB Number:* 1506-0005.

*Form Number:* FinCEN Form 103.

*Abstract:* The statute generally referred to as the "Bank Secrecy Act," Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.<sup>1</sup> Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR part 103. The authority of the Secretary of the Treasury to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 5313(a) authorizes the Secretary of the Treasury to issue

<sup>1</sup> Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

regulations that require a report when "a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States [sic] coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes." Regulations implementing section 5313(a) are found at 31 CFR 103.22. In general, the regulations require the reporting of transactions in currency in excess of \$10,000 a day. Casinos, as defined in 31 U.S.C. 5312(a)(2)(X) and 31 CFR 103.11(n)(7)(i), are financial institutions subject to the currency transaction reporting requirement. Card clubs, as defined in 31 CFR 103.11(n)(8)(i), are casinos subject to currency transaction reporting. (See 63 FR 1919, January 13, 1998.) The Currency Transaction Report by Casinos, FinCEN Form 103, is the form casinos and card clubs use to comply with the currency transaction reporting requirements.

The current CTR-C may be reviewed at: [http://www.fincen.gov/forms/files/fin103\\_ctr.pdf](http://www.fincen.gov/forms/files/fin103_ctr.pdf).

*Type of Review:* Extension, without change, of an approved information collection.

*Affected Public:* Business or other for-profit institutions.

*Frequency:* As required.

*Estimated Burden:* Reporting average of 20 minutes per response.<sup>2</sup> Form record keeping average of 10 minutes per response, for a total of 30 minutes.

*Estimated Number of Respondents:* 925.

*Estimated Total Annual Responses:* 460,000.

*Estimated Total Annual Burden Hours:* 230,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget control number. Records required to be retained under the Bank Secrecy Act must be retained for five years.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of

<sup>2</sup> This burden relates to the completion of the Currency Transaction Report by Casinos form only. The recordkeeping burden of 31 CFR 103.22 is reflected in the final rule requiring casinos and card clubs to file currency transaction reports.

<sup>5</sup> On March 12, 2008, Conrail originally filed an Environmental and Historic Report with the Board. In response to the comments generated by that report, applicants have filed a Supplemental Environmental and Historic Report.

the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 11, 2009.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. E9-5786 Filed 3-17-09; 8:45 am]

**BILLING CODE 4810-02-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 8926

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

**DATES:** Written comments should be received on or before May 18, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622-3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

**OMB Number:** 1545-2127.

**Form Number:** Form 8926.

**Abstract:** Pursuant to a Congressional directive to determine whether the earnings stripping limitation rule of Code section 163(j) was effective in curbing the erosion of the U.S. tax base, CC:INTL, LMSB, and the Treasury sought to create Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

**Current Actions:** There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Businesses and other for-profit organizations.

**Estimated Number of Respondents:** 500,000.

**Estimated Time per Respondent:** 15 hours 12 minutes.

**Estimated Total Annual Burden**

**Hours:** 7,560,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 3, 2009.

**R. Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. E9-5883 Filed 3-17-09; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Forms 5310 and 6088

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

**DATES:** Written comments should be received on or before May 18, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala, at (202) 622-3634, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

**OMB Number:** 1545-0202.

**Form Number:** Forms 5310 and 6088.

**Abstract:** Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. Form 5310 is used to request an IRS determination letter about the plan's qualification status (qualified or non-qualified) under Internal Revenue Code section 401(a). Form 6088 is used to show the amounts of distributable benefits to participants in the plan.

*Number of Respondents:* 2 (Monthly Average).

*Number of Responses:* 24.

*Estimated Time per Response:* 1 hour.

*Total Annual Burden:* 24 hours.

*Needs and Uses:* The Department uses this form as the means to fulfill its obligation under the Federal Election Campaign Act of 1971 (the Act). The Act's legislative history indicates that one of its statutory goals is to prevent candidates for Federal political office from incurring large amounts of unsecured debt with regulated transportation companies (e.g. airlines). This information collection allows the Department to monitor and disclose the amount of unsecured credit extended by airlines to candidates for Federal office. All certificated air carriers are required to submit this information.

*The Confidential Information Protection and Statistical Efficiency Act of 2002* (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on March 10, 2009.

**Anne Suissa,**

*Director, Office of Airline Information,  
Bureau of Transportation Statistics.*

[FR Doc. E9-5616 Filed 3-13-09; 8:45 am]

**BILLING CODE 4910-HY-P**

---

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

March 10, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before April 15, 2009 to be assured of consideration.

### Alcohol and Tobacco Tax and Trade Bureau (TTB)

*OMB Number:* 1513-0027.

*Type of Review:* Extension.

*Form:* TTB F 5200.14.

*Title:* Taxable Articles without Payment of Tax.

*Description:* The tobacco manufacturer or export warehouse proprietor is liable for the tax on tobacco products until execution of the certification by Customs or an authorized receiving officer on TTB F 5200.14, which indicates verification of export or bonded transfer. TTB needs this information to protect the revenue. If this TTB form is not properly completed, TTB will assess the tax on the manufacturer of tobacco products or cigarette papers and tubes or on the proprietor of the export warehouse or customs manufacturing warehouse for products not exported or properly disposed of.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 59,840 hours.

*OMB Number:* 1513-0051.

*Type of Review:* Extension.

*Form:* TTB F 5110.74.

*Title:* Application for an Alcohol Fuel Producer under 26 U.S.C. 5181.

*Description:* This form is used by persons who wish to produce and receive spirits for the production of alcohol fuels as a business or for their own use and for State and local registration where required. The form describes the person(s) applying for the permit, location of the proposed operation, type of material used for production, and amount of spirits to be produced.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 394 hours.

*OMB Number:* 1513-0090.

*Type of Review:* Extension.

*Form:* TTB F 5000.25.

*Title:* Excise Tax Return—Alcohol and Tobacco (Puerto Rico).

*Description:* Businesses in Puerto Rico report their Federal excise tax liability on distilled spirits, wine, beer, tobacco products, cigarette papers and tubes on TTB F 5000.25. TTB needs this form to identify the taxpayer and to determine the amount and type of taxes due and paid.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 119 hours.

*OMB Number:* 1513-0013.

*Type of Review:* Extension.

*Form:* TTB F 5000.18.

*Title:* Change of Bond (Consent of Surety).

*Description:* A Change of Bond (Consent of Surety), TTB F 5000.18, is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. A bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities. TTB F 5000.18 is filed with TTB and a copy is retained by TTB as long as it remains current and in force.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 2,000 hours.

*OMB Number:* 1513-0111.

*Type of Review:* Revision.

*Form:* TTB F 5013.2.

*Title:* COLAs Online Access Request.

*Description:* The information on this form will be used by TTB to authenticate end users on the system to electronically file Certificates of Label Approval (COLAs). The system will authenticate end users by comparing information submitted to records in multiple databases.

*Respondents:* Businesses or other for-profits.

*Estimated Total Burden Hours:* 410 hours.

*Clearance Officer:* Frank Foote, (202) 927-9347. Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

*OMB Reviewer:* Shagufta Ahmed, (202) 395-7873. Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Celina Elphage,**

*Treasury PRA Clearance Officer.*

[FR Doc. E9-5605 Filed 3-13-09; 8:45 am]

**BILLING CODE 4810-31-P**

---

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Proposed Collection; Comment Request; Suspicious Activity Report by Casinos and Card Clubs

**AGENCY:** Financial Crimes Enforcement Network ("FinCEN"), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** FinCEN invites comment on a renewal without change of an information collection contained in the form, "Suspicious Activity Report by

Casinos and Card Clubs (SAR-C).” The form will be used by casinos and card clubs to report suspicious activity to the Department of the Treasury. This request for comments covers 31 CFR 103.21. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

**DATES:** Written comments are welcome and must be received on or before May 15, 2009.

**ADDRESSES:** Written comments should be submitted to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: PRA Comments—SAR—Casinos and Card Clubs Form. Comments also may be submitted by electronic mail to the following Internet address: [regcomments@fincen.gov](mailto:regcomments@fincen.gov), again with a caption, in the body of the text, “Attention: PRA Comments—SAR—Casinos and Card Clubs Form.”

*Inspection of comments.* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Helpline at 800–949–2732, select option 4.

**SUPPLEMENTARY INFORMATION:**

*Title:* Suspicious Activity Report by Casinos and Card Clubs.

*OMB Number:* 1506–0006.

*Form Number:* FinCEN Form 102.

*Abstract:* The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5331, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.<sup>1</sup> Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part

103. The authority of the Secretary of the Treasury to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network. The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g), to require financial institutions to report suspicious transactions.

The information collected on this form is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.21. This information will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel for use in official performance of their duties, for regulatory purposes and in investigations and proceedings involving domestic and international money laundering, tax violations, fraud, and other financial crimes.

Reports filed by casinos required to report suspicious transactions under 31 CFR 103.21, and any reports filed voluntarily by casinos or card clubs will be subject to the protection from liability contained in 31 U.S.C. 5318(g)(3) and the provision contained in 31 U.S.C. 5318(g)(2) which prohibits notification of any person involved in the transaction that a suspicious activity report has been filed. The current SAR–C may be reviewed at [http://www.fincen.gov/forms/files/fin102\\_sar-c.pdf](http://www.fincen.gov/forms/files/fin102_sar-c.pdf).

*Type of Review:* Renewal without change of a currently approved information collection.

*Affected Public:* Business or other for-profit institutions.

*Frequency:* As required.

*Estimated Reporting Burden:* The reporting average for the form is 60 minutes per response and the recordkeeping average is 2 hours per response for a total of 3 hours. This burden relates to the completion of the form and the recordkeeping burden of 31 CFR 103.21.

*Estimated Number of Respondents =* 925.

*Estimated Total Annual Responses =* 11,200.

*Estimated Total Annual Reporting and Recordkeeping Burden:* 33,600 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the Bank Secrecy Act must be retained for five years.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 9, 2009.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. E9–5533 Filed 3–13–09; 8:45 am]

**BILLING CODE 4810–02–P**

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**Financial Management Service;  
Proposed Collection of Information;  
Trace Request for Electronic Funds  
Transfer (EFT) Payment; and Trace  
Request Direct Deposit**

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning forms FMS 150.1 “Trace Request for Electronic Funds Transfer Payment” and FMS–150.2 “Trace Request Direct Deposit.”

**DATES:** Written comments should be received on or before *May 15, 2009*.

**ADDRESSES:** Direct all written comments to Financial Management Service, 3700 East-West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

<sup>1</sup> Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (the “USA Patriot Act”), Public Law 107–56.