
**TITLE 31—Money and Finance:
Treasury****SUBTITLE B—Regulations Relating
to Money and Finance****CHAPTER I—Monetary Offices,
Department of the Treasury****PART 103—Financial Recordkeeping
and Reporting of Currency and
Foreign Transactions****SUBPART A—Definitions****31 CFR 103.11****§ 103.11 Meaning of terms.**

[PUBLISHER'S NOTE: Paragraphs (n)(7)(i), (z) and (nn) were revised, and paragraphs (rr), (ss), and (tt) were added at 61 FR 7054, 7055, Feb. 23, 1996, effective Aug. 1, 1996.]

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

- (a) *Accept.* A receiving financial institution, other than the recipient's financial institution, accepts a transmittal order by executing the transmittal order. A recipient's financial institution accepts a transmittal order by paying the recipient, by notifying the recipient of the receipt of the order or by otherwise becoming obligated to carry out the order.
- (b) *At one time.* For purposes of § 103.23 of this part, a person who transports, mails, ships or receives; is about to or attempts to transport, mail or ship; or causes the transportation, mailing, shipment or receipt of monetary instruments, is deemed to do so "at one time" if:
 - (1) That person either alone, in conjunction with or on behalf of others;
 - (2) Transports, mails, ships or receives in any manner; is about to transport, mail or ship in any manner; or causes the transportation, mailing, shipment or receipt in any manner of;
 - (3) Monetary instruments;

- (4) Into the United States or out of the United States;
- (5) Totaling more than \$10,000;
- (6) (i) On one calendar day or (ii) if for the purpose of evading the reporting requirements of § 103.23, on one or more days.
- (c) *Bank.* Each agent, agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:
 - (1) A commercial bank or trust company organized under the laws of any State or of the United States;
 - (2) A private bank;
 - (3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;
 - (4) An insured institution as defined in section 401 of the National Housing Act;
 - (5) A savings bank, industrial bank or other thrift institution;
 - (6) A credit union organized under the law of any State or of the United States;
 - (7) Any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State;
 - (8) A bank organized under foreign law;
 - (9) Any national banking association or corporation acting under the provisions of section 25(aa) of the Act of Dec. 23, 1913, as added by the Act of Dec. 24, 1919, ch. 18, 41 Stat. 378, as amended (12 U.S.C. 611–32).
- (d) *Beneficiary.* The person to be paid by the beneficiary's bank.
- (e) *Beneficiary's bank.* The bank or foreign bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.
- (f) *Broker or dealer in securities.* A broker or dealer in securities, registered or required to be registered with the Securi-

- ties and Exchange Commission under the Securities Exchange Act of 1934.
- (g) *Common carrier.* Any person engaged in the business of transporting individuals or goods for a fee who holds himself out as ready to engage in such transportation for hire and who undertakes to do so indiscriminately for all persons who are prepared to pay the fee for the particular service offered.
- (h) *Currency.* The coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.
- (i) *Currency dealer or exchanger.* A person who engages as a business in dealing in or exchanging currency, except for banks which offer such services as an adjunct to their regular services.
- (j) *Deposit account.* Deposit accounts include transaction accounts described in paragraph (q) of this section, savings accounts, and other time deposits.
- (k) *Domestic.* When used herein, refers to the doing of business within the United States, and limits the applicability of the provision where it appears to the performance by such institutions or agencies of functions within the United States.
- (l) *Established customer.* A person with an account with the financial institution, including a loan account or deposit or other asset account, or a person with respect to which the financial institution has obtained and maintains on file the person's name and address, as well as taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, and to which the financial institution provides financial services relying on that information.
- (m) *Execution date.* The day on which the receiving financial institution may properly issue a transmittal order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received, and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the recipient on the payment date.
- (n) *Financial institution.* Each agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed below:
- (1) A bank (except bank credit card systems);
 - (2) A broker or dealer in securities;
 - (3) A currency dealer or exchanger, including a person engaged in the business of a check casher;
 - (4) An issuer, seller, or redeemer of traveler's checks or money orders, except as a selling agent exclusively who does not sell more than \$150,000 of such instruments within any given 30-day period;
 - (5) A licensed transmitter of funds, or other person engaged in the business of transmitting funds;
 - (6) A telegraph company;
 - (7) (i) [Effective Aug. 1, 1996.] Casino. A casino or gambling casino that: Is duly licensed or authorized to do business as such in the United States, whether under the laws of a State or of a Territory or Insular Possession of the United States, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands (including, without limitation, a casino operating on the assumption or under the view that no such authorization is required for casino operation on Indian lands); and has gross annual gaming revenue in excess of \$1 million. The term includes the principal headquarters and every domestic branch or place of business of the casino.
 - (ii) For purposes of this paragraph (i)(7), "gross annual gaming reve-

- nue” means the gross gaming revenue received by a casino, during either the previous business year or the current business year of the casino. A casino or gambling casino which is a casino for purposes of this part solely because its gross annual gaming revenue exceeds \$1,000,000 during its current business year, shall not be considered a casino for purposes of this part prior to the time in its current business year that its gross annual gaming revenue exceeds \$1,000,000.
- (8) A person subject to supervision by any state or federal bank supervisory authority;
 - (9) The United States Postal Service with respect to the sale of money orders.
 - (o) *Foreign bank.* A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.
 - (p) *Foreign financial agency.* A person acting outside the United States for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.
 - (q) *Funds transfer.* The series of transactions, beginning with the originator’s payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator’s bank or an intermediary bank intended to carry out the originator’s payment order. A funds transfer is completed by acceptance by the beneficiary’s bank of a payment order for the benefit of the beneficiary of the originator’s payment order. Funds transfers governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693, et seq.), as well as any other funds transfers that are made through an automated clearinghouse, an automated teller machine, or a point-of-sale system, are excluded from this definition.
 - (r) *Transaction.*
 - (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other investment security or monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.
 - (2) For purposes of § 103.22, and other provisions of this part relating solely to the report required by that section, the term “transaction in currency” shall mean a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency, is not a transaction in currency for this purpose.
 - (s) *Intermediary financial institution.* A receiving financial institution, other than the transmitter’s financial institution or the recipient’s financial institution. The term intermediary financial institution includes an intermediary bank.
 - (t) *Investment security.* An instrument which:
 - (1) Is issued in bearer or registered form;
 - (2) Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;
 - (3) Is either one of a class or series or by its terms is divisible into a class or series of instruments; and
 - (4) Evidences a share, participation or other interest in property or in an

enterprise or evidences an obligation of the issuer.

(u) *Monetary instruments.*

(1) Monetary instruments include:

- (i) Currency;
- (ii) Traveler's checks in any form;
- (iii) All negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, third-party checks, promissory notes (as that term is defined in the Uniform Commercial Code), and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee (for the purposes of § 103.23), or otherwise in such form that title thereto passes upon delivery;
- (iv) Incomplete instruments (including personal checks, business checks, official bank checks, cashier's checks, third-party checks, promissory notes (as that term is defined in the Uniform Commercial Code), and money orders) signed but with the payee's name omitted; and
- (v) Securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery.

(2) Monetary instruments do not include warehouse receipts or bills of lading.

- (v) *Originator.* The sender of the first payment order in a funds transfer.
- (w) *Originator's bank.* The receiving bank to which the payment order of the originator is issued if the originator is not a bank or foreign bank, or the originator if the originator is a bank or foreign bank.
- (x) *Payment date.* The day on which the amount of the transmittal order is payable to the recipient by the recipient's financial institution. The payment date may be determined by instruction of the sender, but cannot be earlier than the day the order is received by the recipient's financial institution and, unless otherwise prescribed by instruction, is the date the order is received by the recipient's financial institution.
- (y) *Payment order.* An instruction of a sender to a receiving bank, transmitted orally,

electronically, or in writing, to pay, or to cause another bank or foreign bank to pay, a fixed or determinable amount of money to a beneficiary if:

- (z) [Effective Aug. 1, 1996.] *Person.* An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.
- (aa) *Receiving bank.* The bank or foreign bank to which the sender's instruction is addressed.
- (bb) *Receiving financial institution.* The financial institution or foreign financial agency to which the sender's instruction is addressed. The term receiving financial institution includes a receiving bank.
- (cc) *Recipient.* The person to be paid by the recipient's financial institution. The term recipient includes a beneficiary, except where the recipient's financial institution is a financial institution other than a bank.
- (dd) *Recipient's financial institution.* The financial institution or foreign financial agency identified in a transmittal order in which an account of the recipient is to be credited pursuant to the transmittal order or which otherwise is to make payment to the recipient if the order does not provide for payment to an account. The term recipient's financial institution includes a beneficiary's bank, except where the beneficiary is a recipient's financial institution.
- (ee) *Secretary.* The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.
- (ff) *Sender.* The person giving the instruction to the receiving financial institution.
- (gg) *Structure (structuring).* For purposes of section 103.53, a person structures a transaction if that person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the reporting requirements under section 103.22 of this Part. 'In any manner'

- includes, but is not limited to, the breaking down of a single sum of currency exceeding \$10,000 into smaller sums, including sums at or below \$10,000, or the conduct of a transaction, or series of currency transactions, including transactions at or below \$10,000. The transaction or transactions need not exceed the \$10,000 reporting threshold at any single financial institution on any single day in order to constitute structuring within the meaning of this definition.
- (hh) *Transaction account.* Transaction accounts include those accounts described in 12 U.S.C. 461(b)(1)(C), money market accounts and similar accounts that take deposits and are subject to withdrawal by check or other negotiable
- (ii) *Transaction in currency.* A transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency is not a transaction in currency within the meaning of this part.
- (jj) *Transmittal of funds.* A series of transactions beginning with the transmitter's transmittal order, made for the purpose of making payment to the recipient of the order. The term includes any transmittal order issued by the transmitter's financial institution or an intermediary financial institution intended to carry out the transmitter's transmittal order. The term transmittal of funds includes a funds transfer. A transmittal of funds is completed by acceptance by the recipient's financial institution of a transmittal order for the benefit of the recipient of the transmitter's transmittal order. Funds transfers governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693, et seq.), as well as any other funds transfers that are made through an automated clearinghouse, an automated teller machine, or a point-of-sale system, are excluded from this definition.
- (kk) *Transmittal order.* The term transmittal order includes a payment order and is an instruction of a sender to a receiving financial institution, transmitted orally, electronically, or in writing, to pay, or cause another financial institution or foreign financial agency to pay, a fixed or determinable amount of money to a recipient if:
- (ll) *Transmittor.* The sender of the first transmittal order in a transmittal of funds. The term transmittor includes an originator, except where the transmittor's financial institution is a financial institution or foreign financial agency other than a bank or foreign bank.
- (mm) *Transmittor's financial institution.* The receiving financial institution to which the transmittal order of the transmittor is issued if the transmittor is not a financial institution or foreign financial agency, or the transmittor if the transmittor is a financial institution or foreign financial agency. The term transmittor's financial institution includes an originator's bank, except where the originator is a transmittor's financial institution other than a bank or foreign bank.
- (nn) [Effective Aug. 1, 1996.] *United States.* The States of the United States, the District of Columbia, the Indian lands (as that term is defined in the Indian Gaming Regulatory Act), and the Territories and Insular Possessions of the United States.
- (oo) *Business day.* Business day, as used in this part with respect to banks, means that day, as normally communicated to its depository customers, on which a bank routinely posts a particular transaction to its customer's account.
- (pp) *Postal Service.* The United States Postal Service
- (qq) *FinCEN.* FinCEN means the Financial Crimes Enforcement Network, an office within the Office of the Under Secretary (Enforcement) of the Department of the Treasury.
- (rr) [Effective Aug. 1, 1996.] *Indian Gaming Regulatory Act.* The Indian Gaming Regulatory Act of 1988, codified at 25 U.S.C. 2701–2721 and 18 U.S.C. 1166–68.
- (ss) [Effective Aug. 1, 1996.] *State.* The States of the United States and, wherever necessary to carry out the provisions of this part, the District of Columbia.
- (tt) [Effective Aug. 1, 1996.] *Territories and Insular Possessions.* The Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and all other

territories and possessions of the United States other than the Indian lands and the District of Columbia.

HISTORY:

[52 FR 11441, Apr. 8, 1987; 52 FR 12641, Apr. 17, 1987, as amended at 53 FR 777, Jan. 13, 1988; 53 FR 4138, Feb. 12, 1988; 54 FR 3027, Jan. 23, 1989; 54 FR 28418, July 6, 1989; 55 FR 20143, May 15, 1990; 58 FR 13546, Mar. 12, 1993; 58 FR 45263, Aug. 27, 1993; 59 FR 9088, Feb. 25, 1994; 60 FR 228, Jan. 3, 1995; 60 FR 44144, Aug. 24, 1995; 61 FR 4326, 4331, Feb. 5, 1996, as corrected at 61 FR 14248, 14249, April 1, 1996; 61 FR 7054, 7055, Feb. 23, 1996; 61 FR 7054, 7055, Feb. 23, 1996; 61 FR 14383, 14385, Apr. 1, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5330.

NOTES:

[EFFECTIVE DATE NOTE: 60 FR 228, Jan. 3, 1995, which amended this section, became effective Jan. 1, 1996; 60 FR 44144, Aug. 24, 1995, delayed the effective date of the amendment at 60 FR 228, Jan. 3, 1995, from Jan. 1, 1996 to Apr. 1, 1996; 61 FR 14382, April 1, 1996, delayed the effective date of the amendment at 60 FR 228, Jan. 3, 1995, from April 1, 1996, to May 28, 1996; 61 FR 4326, 4331, Feb. 5, 1996, which revised paragraph (r) and added paragraph (qq), became effective April 1, 1996; 61 FR 7054, 7055, Feb. 23, 1996, which revised paragraphs (n)(7)(i), (z) and (nn), and added paragraphs (rr), (ss) and (tt), is effective Aug. 1, 1996; 61 FR 14383, 14385, April 1, 1996, which revised paragraphs (e), (w), (y), (aa), (bb), (dd), (kk), (ll), and (mm), became effective May 28 1996.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10.

CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.20

§ 103.20 Determination by the Secretary.

The Secretary hereby determines that the reports required by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as redesignated at 61 FR 4326, 4331, Feb. 5 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5330.

NOTES:

[EFFECTIVE DATE NOTE: 61 FR 4326, 4331, Feb. 5 1996, which redesignated this section, is effective April 1, 1996.]
[CROSS REFERENCE: This section was formerly § 103.21.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10.

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EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.21

§ 103.21 Reports by banks of suspicious transactions.

(a) *General.*

- (1) Every bank shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A bank may also file with the Treasury Department by using the Suspicious Activity Report specified in paragraph (b)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.
- (2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through the bank, it involves or aggregates at least \$5,000 in funds or other assets, and the bank knows, suspects, or has reason to suspect that:

- (i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;
 - (ii) The transaction is designed to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or
 - (iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.
- (b) *Filing procedures*—
- (1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report (“SAR”), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.
 - (2) *Where to file.* The SAR shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR.
 - (3) *When to file.* A bank is required to file a SAR no later than 30 calendar days after the date of initial detection by the bank of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of the detection of the incident requiring the filing, a bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations that require immediate attention, such as, for example, ongoing money laundering schemes, the bank shall immediately notify, by telephone, an appropriate law enforcement authority in addition to filing timely a SAR.
- (c) *Exceptions.* A bank is not required to file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities, or for lost, missing, counterfeit, or stolen securities with respect to which the bank files a report pursuant to the reporting requirements of 17 C.F.R. 240.17f-1.
- (d) *Retention of records.* A bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR. Supporting documentation shall be identified, and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A bank shall make all supporting documentation available to FinCEN and any appropriate law enforcement agencies or bank supervisory agencies upon request.
- (e) *Confidentiality of reports; limitation of liability.* No bank or other financial institution, and no director, officer, employee, or agent of any bank or other financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR, except where such disclosure is requested by FinCEN or an appropriate law enforcement or bank supervisory agency, shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this paragraph (e) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. A bank, and any director, officer, employee, or agent of such bank, that makes a report pursuant to this section (whether such report is required by this section or is made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclose the fact of such report, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).
- (f) *Compliance.* Compliance with this section shall be audited by the Department of the

Treasury, through FinCEN or its delegees under the terms of the Bank Secrecy Act. Failure to satisfy the requirements of this section may be a violation of the reporting rules of the Bank Secrecy Act and of this part. Such failure may also violate provisions of Title 12 of the Code of Federal Regulations.

HISTORY:

[61 FR 4326, 4331, Feb. 5, 1996, as corrected at 61 FR 14248, 14249, April 1, 1996, and 61 FR 18250, April 25, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5330.

NOTES:

[EFFECTIVE DATE NOTE: 61 FR 4326, 4331, Feb. 5, 1996, which added this section, became effective April 1, 1996.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10.

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EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

TITLE 31—Money and Finance: Treasury

SUBTITLE B—Regulations Relating to Money and Finance

CHAPTER I—Monetary Offices, Department of the Treasury

PART 103—Financial Recordkeeping and Reporting of Currency and Foreign Transactions

SUBPART A—Definitions

31 C.F.R. 103.11

§ 103.22 Reports of currency transactions.

(a) (1) Each financial institution other than a casino or the Postal Service shall file a report of each deposit, withdrawal,

exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000. Transactions in currency by exempt persons with banks occurring after April 30, 1996, are not subject to this requirement to the extent provided in paragraph (h) of this section. Multiple currency transactions shall be treated as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and result in either cash in or cash out totalling more than \$10,000 during any one business day. Deposits made at night or over a weekend or holiday shall be treated as if received on the next business day following the deposit.

(2) Each casino shall file a report of each transaction in currency, involving either cash in or cash out, of more than \$10,000.

(i) Transactions in currency involving cash in include, but are not limited to:

- (A) Purchases of chips, tokens, and plaques;
- (B) Front money deposits;
- (C) Safekeeping deposits;
- (D) Payments on any form of credit, including markers and counter checks;
- (E) Bets of currency;
- (F) Currency received by a casino for transmittal of funds through wire transfer for a customer;
- (G) Purchases of a casino's check; and
- (H) Exchanges of currency for currency, including foreign currency.

(ii) Transactions in currency involving cash out include, but are not limited to:

- (A) Redemptions of chips, tokens, and plaques;
- (B) Front money withdrawals;
- (C) Safekeeping withdrawals;
- (D) Advances on any form of credit, including markers and counter checks;

- (E) Payments on bets, including slot jackpots;
 - (F) Payments by a casino to a customer based on receipt of funds through wire transfer for credit to a customer;
 - (G) Cashing of checks or other negotiable instruments;
 - (H) Exchanges of currency for currency, including foreign currency; and
 - (I) Reimbursements for customers' travel and entertainment expenses by the casino.
- (iii) Multiple currency transactions shall be treated as a single transaction if the casino has knowledge that they are by or on behalf of any person and result in either cash in or cash out totalling more than \$10,000 during any gaming day. For purposes of this paragraph (a)(2), a casino shall be deemed to have the knowledge described in the preceding sentence, if: any sole proprietor, partner, officer, director, or employee of the casino, acting within the scope of his or her employment, has knowledge that such multiple currency transactions have occurred, including knowledge from examining the books, records, logs, information retained on magnetic disk, tape or other machine-readable media, or in any manual system, and similar documents and information, which the casino maintains pursuant to any law or regulation or within the ordinary course of its business, and which contain information that such multiple currency transactions have occurred.
- (A) Any sole proprietor, partner, officer, director, or employee of the casino, acting within the scope of his or her employment has knowledge that such multiple currency transactions have occurred, or
 - (B) The books, records, logs, information retained on magnetic disk, tape or other machine-readable media, or in any manual system, and similar documents and information, which the casino maintains pursuant to any law or regulation or within the normal course of its business, contain information that such multiple currency transactions have occurred.
- (3) The Postal Service shall file a report of each cash purchase of postal money orders in excess of \$10,000. Multiple cash purchases totaling more than \$10,000 shall be treated as a single transaction if the Postal Service has knowledge that they are by or on behalf of any person during any one day.
- (4) A financial institution includes all of its domestic branch offices for the purpose of this paragraph's reporting requirements.
- (b) Except as otherwise directed in writing by the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue:
- (1) This section shall not require reports:
 - (i) Of transactions with Federal Reserve Banks or Federal Home Loan banks;
 - (ii) Of transactions between domestic banks; or
 - (iii) By nonbank financial institutions of transactions with commercial banks (however, commercial banks must report such transactions with nonbank financial institutions).
 - (2) A bank may exempt from the reporting requirement of paragraph (aa) of this section the following:
 - (i) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a retail type of business in the United States. For the purpose of this subsection, a retail type of business is a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portions by currency, except that dealerships which buy or sell motor vehicles, vessels, or aircraft are not included and their transactions may not be exempted from the reporting requirements of this section.

- (ii) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, theater, regularly scheduled passenger carrier or any public utility.
 - (iii) Deposits or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities.
 - (iv) Withdrawals for payroll purposes from an existing account by an established depositor who is a United States resident and operates a firm that regularly withdraws more than \$10,000 in order to pay its employees in currency.
- (c) In each instance the transactions exempted under paragraph (b) of this section must be in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer, or in the case of transactions with a local or state government or the United States or any of its agencies or instrumentalities, in amounts which are customary and commensurate with the authorized activities of the agency or instrumentality. This section does not permit a bank to exempt its transactions with nonbank financial institutions (except for check cashing services licensed by state or local governments and the United States Postal Service) nor will additional exemption authority be granted for such transaction (except transactions by other check cashers).
- (d) After October 27, 1986, a bank may not place any customer on its exempt list without first preparing a written statement, signed by the customer, describing the customary conduct of the lawful domestic business of that customer and a detailed statement of reasons why such person is qualified for an exemption. The statement shall include the name, address, nature of business, taxpayer identification number, and account number of the customer being exempted. The signature, including the title and position of the

person signing, will attest to the accuracy of the information concerning the name, address, nature of business, and tax identification number of the customer. Immediately above the signature line, the following statement shall appear:

“The information contained above is true and correct to the best of my knowledge and belief. I understand that this information will be read and relied upon by the Government.”

The bank shall indicate in this statement whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption for both deposits and withdrawals. The bank also shall indicate whether the exemption is limited to certain types of deposits and withdrawals (e.g., withdrawals for payroll purposes). In each instance, the exempted transactions must be in amounts that the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful domestic business of that customer. The bank is responsible for independently verifying the activity of the account and determining applicable dollar limits for exempted deposits or withdrawals. The bank must retain each statement that it prepares pursuant to this subparagraph as long as the customer is on the exempt list, and for a period of five years following removal of the customer from the bank's exempt list.

- (e) A bank may apply to the Commissioner of Internal Revenue for additional authority to grant an exemption to the reporting requirement, not otherwise permitted under paragraph (b) of this section, if the bank believes that circumstances warrant such an exemption. Such requests shall be addressed to: Chief, Currency and Banking Reports Branch, Compliance Review Group, IRS Data Center, Post Office Box 32063, Detroit, Michigan 48232, and must be accompanied by a statement of the circumstances that warrant special exemption treatment and a copy of the statement signed by the customer required by paragraph (d) of this section.
- (f) A record of each exemption granted under this section and the reason therefor must be kept in a centralized list. The record shall include the names and addresses of all banks referred to in paragraph (b)(1)(ii) of this section, as well as the name, address, busi-

- ness, taxpayer identification number and account number of each depositor that has engaged in currency transactions which have not been reported because of the exemption provided in paragraph (b)(2) of this section. The record concerning the group of depositors exempted under the provisions of paragraph (b)(2) of this section shall also indicate whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption.
- (g) Upon the request of the Assistant Secretary (Enforcement) or the Commissioner of Internal Revenue, a bank shall provide a report containing the list of the bank's customers whose transactions have been exempted under this section and such related information as the Assistant Secretary or Commissioner shall require, including copies of the statements required in paragraph (d) of this section. The report must be provided within 15 days of the request. Any exemption may be rescinded at the discretion of the requesting official, who may require the bank to file reports required by paragraph (aa) of this section with respect to future transactions of any customer whose transactions previously were exempted.
- (h) No filing required by banks for transactions by exempt persons occurring after April 30, 1996.
- (1) Currency transactions of exempt persons with banks occurring after April 30, 1996. Notwithstanding the provisions of paragraph (a)(1) of this section, no bank is required to file a report otherwise required by paragraph (a)(1) of this section, with respect to any transaction in currency between an exempt person and a bank that is conducted after April 30, 1996.
- (2) Exempt person. For purposes of this section, an exempt person is:
- (i) A bank, to the extent of such bank's domestic operations;
 - (ii) A department or agency of the United States, of any state, or of any political subdivision of any state;
 - (iii) Any entity established under the laws of the United States, of any state, or of any political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision;
- (iv) Any corporation whose common stock is listed on the New York Stock Exchange or the American Stock Exchange (except stock listed on the Emerging Company Marketplace of the American Stock Exchange) or whose common stock has been designated as a Nasdaq National Market Security listed on the Nasdaq Stock Market (except stock listed under the separate "Nasdaq Small-Cap Issues" heading); and
- (v) Any subsidiary of any corporation described in paragraph (h)(2)(iv) of this section whose federal income tax return is filed as part of a consolidated federal income tax return with such corporation, pursuant to section 1501 of the Internal Revenue Code and the regulations promulgated thereunder, for the calendar year 1995 or for its last fiscal year ending before April 15, 1996.
- (3) Designation of exempt persons.
- (i) A bank must designate each exempt person with whom it engages in transactions in currency, on or before the later of August 15, 1996,¹ and the date 30 days following the first transaction in currency between such bank and such exempt person that occurs after April 30, 1996.
 - (ii) Designation of an exempt person shall be made by a single filing of Internal Revenue Service Form 4789, in which line 36 is marked "Designation of Exempt Person" and items 2-14 (Part I, Section A) and items 37-49 (Part III) are completed. The designation must be made separately by each bank that treats the person in question as an exempt person. (For availability, see 26 C.F.R. 601.602.)
 - (iii) This designation requirement applies whether or not the particu-

1. Rescinded.

lar exempt person to be designated has previously been treated as exempt from the reporting requirements of paragraph (a) of this section under the rules contained in paragraph (b) or (c) of this section.

(4) Operating rules for designating exempt persons.

- (i) Subject to the specific rules of this paragraph (h), a bank must take such steps to assure itself that a person is an exempt person (within the meaning of applicable provisions of paragraph (h)(2) of this section) that a reasonable and prudent bank would take to protect itself from loan or other fraud or loss based on misidentification of a person's status.
- (ii) A bank may treat a person as a governmental department, agency, or entity if the name of such person reasonably indicates that it is described in paragraph (h)(2)(ii) or (h)(2)(iii) of this section, or if such person is known generally in the community to be a State, the District of Columbia, a tribal government, a Territory or Insular Possession of the United States, or a political subdivision or a wholly-owned agency or instrumentality of any of the foregoing. An entity generally exercises governmental authority on behalf of the United States, a State, or a political subdivision, for purposes of paragraph (h)(2)(iii) of this section, only if its authorities include one or more of the powers to tax, to exercise the authority of eminent domain, or to exercise police powers with respect to matters within its jurisdiction.
- (iii) In determining whether a person is described in paragraph (h)(2)(iv) of this section, a bank may rely on any New York Stock Exchange, American Stock Exchange, or Nasdaq Stock Market listing published in a newspaper of general circulation and on any commonly accepted or published stock symbol guide.

(iv) In determining whether a person is described in paragraph (h)(2)(v) of this section, a bank may rely upon any reasonably authenticated corporate officer's certificate or any reasonably authenticated photocopy of Internal Revenue Service Form 851 (Affiliation Schedule) or the equivalent thereof for the appropriate tax year.

(5) Limitation on exemption. A transaction carried out by an exempt person as an agent for another person who is the beneficial owner of the funds that are the subject of a transaction in currency is not subject to the exemption from reporting contained in paragraph (h)(1) of this section.

(6) Effect of exemption; limitation on liability.

- (i) FinCEN may in the future determine by amendment to this part that the exemption contained in this paragraph (h) shall be the only basis for exempting persons described in paragraph (h)(2) of this section from the reporting requirements of paragraph (a) of this section.
- (ii) No bank shall be subject to penalty under this part for failure to file a report required by paragraph (a) of this section with respect to a currency transaction by an exempt person with respect to which the requirements of this paragraph (h) have been satisfied, unless the bank:
 - (iii) (A) Knowingly files false or incomplete information with respect to the transaction or the customer engaging in the transaction; or
 - (B) Has reason to believe at the time the exemption is granted that the customer does not meet the criteria established by this paragraph (h) for treatment of the transactor as an exempt person or that the transaction is not a transaction of the exempt person.
- (iv) A bank that files a report with respect to a currency transaction by an exempt person rather than treating such person as exempt shall

remain subject with respect to each such report to the rules for filing reports, and the penalties for filing false or incomplete reports, that are applicable to reporting of transactions in currency by persons other than exempt persons. A bank that continues for the period permitted by paragraph (h)(6)(i) of this section to treat a person described in paragraph (h)(2) of this section as exempt from the reporting requirements of paragraph (aa) of this section on a basis other than as provided in this paragraph (h) shall remain subject in full to the rules governing an exemption on such other basis and to the penalties for failing to comply with the rules governing such other exemption.

- (7) Obligation to file suspicious activity reports, etc. Nothing in this paragraph (h) relieves a bank of the obligation, or alters in any way such bank's obligation, to file a report required by § 103.21 with respect to any transaction, including, without limitation, any transaction in currency, or relieves a bank of any other reporting or recordkeeping obligation imposed by this part (except the obligation to report transactions in currency pursuant to paragraph (a) of this section to the extent provided in this paragraph (h)).
- (8) Revocation. The status of any person as an exempt person under this paragraph (h) may be revoked by FinCEN by written notice, which may be provided by publication in the Federal Register in appropriate situations, on such terms as are specified in such notice. In addition, and without any action on the part of the Treasury Department:
 - (i) The status of a corporation as an exempt person pursuant to paragraph (h)(2)(iv) of this section ceases once such corporation ceases to be listed on the applicable stock exchange; and
 - (ii) The status of a subsidiary as an exempt person under paragraph (h)(2)(v) of this section ceases once such subsidiary ceases to be included in a consolidated federal income tax

return of a person described in paragraph (h)(2)(iv) of this section.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[52 FR 11442, Apr. 8, 1987, as amended at 53 FR 777, Jan. 13, 1988; 53 FR 4138, Feb. 12, 1988; 58 FR 13547, Mar. 12, 1993; 58 FR 45263, Aug. 27, 1993; 59 FR 9088, Feb. 25, 1994; 59 FR 61662, Dec. 1, 1994; 61 FR 18204, 18209, April 24, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5330.

NOTES:

[EFFECTIVE DATE NOTE: 61 FR 18204, 18209, April 24, 1996, which added a new sentence immediately following the first sentence in paragraph (aa)(1), and added a new paragraph (h), became effective May 1, 1996.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.23

§ 103.23 Reports of transportation of currency or monetary instruments.

- (a) Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped, or attempts to physically transport, mail or ship, or attempts to cause to be physically transported, mailed or shipped, currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time from the United States to any place outside the United States, or into the United States from any place outside the United States, shall make a report thereof. A person is deemed to have caused such transportation, mailing or shipping when he aids, abets, counsels, com-

- mands, procures, or requests it to be done by a financial institution or any other person.
- (b) Each person who receives in the U.S. currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time which have been transported, mailed, or shipped to such person from any place outside the United States with respect to which a report has not been filed under paragraph (a) of this section, whether or not required to be filed thereunder, shall make a report thereof, stating the amount, the date of receipt, the form of monetary instruments, and the person from whom received.
- (c) This section shall not require reports by:
- (1) A Federal Reserve;
 - (2) A bank, a foreign bank, or a broker or dealer in securities, in respect to currency or other monetary instruments mailed or shipped through the postal service or by common carrier;
 - (3) A commercial bank or trust company organized under the laws of any State or of the United States with respect to overland shipments of currency or monetary instruments shipped to or received from an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned;
 - (4) A person who is not a citizen or resident of the United States in respect to currency or other monetary instruments mailed or shipped from abroad to a bank or broker or dealer in securities through the postal service or by common carrier;
 - (5) A common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers;
 - (6) A common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper;
 - (7) A travelers' check issuer or its agent in respect to the transportation of travelers' checks prior to their delivery to selling agents for eventual sale to the public;
 - (8) By a person with respect to a restrictively endorsed traveler's check that is in the collection and reconciliation process after the traveler's check has been negotiated;
 - (9) Nor by a person engaged as a business in the transportation of currency, monetary instruments and other commercial papers with respect to the transportation of currency or other monetary instruments overlaid between established offices of banks or brokers or dealers in securities and foreign persons.
- (d) A transfer of funds through normal banking procedures which does not involve the physical transportation of currency or monetary instruments is not required to be reported by this section. This section does not require that more than one report be filed covering a particular transportation, mailing or shipping of currency or other monetary instruments with respect to which a complete and truthful report has been filed by a person. However, no person required by paragraph (a) or (b) of this section to file a report shall be excused from liability for failure to do so if, in fact, a complete and truthful report has not been filed.
- (Approved by the Office of Management and Budget under control number 1505-0063)
- HISTORY:**
[37 FR 26517, Dec. 13, 1972, as amended at 50 FR 18479, May 1, 1985; 50 FR 42693, Oct. 22, 1985; 53 FR 4138, Feb. 12, 1988; 54 FR 28418, July 6, 1989]
- AUTHORITY:**
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5330.
- NOTES:**
NOTES APPLICABLE TO ENTIRE TITLE:
EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.
- NOTES APPLICABLE TO ENTIRE CHAPTER:**
ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.
- NOTES APPLICABLE TO ENTIRE PART:**
EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

TITLE 31—Money and Finance: Treasury

SUBTITLE B—Regulations Relating to Money and Finance

CHAPTER I—Monetary Offices, Department of the Treasury

PART 103—Financial Recordkeeping and Reporting of Currency and Foreign Transactions

SUBPART B—Reports Required to be Made

31 C.F.R. 103.24

§ 103.24 Reports of foreign financial accounts.

- (a) Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship to the Commissioner of the Internal Revenue for each year in which such relationship exists, and shall provide such information as shall be specified in a reporting form prescribed by the Secretary to be filed by such persons. Persons having a financial interest in 25 or more foreign financial accounts need only note that fact on the form. Such persons will be required to provide detailed information concerning each account when so requested by the Secretary or his delegate.

HISTORY:

[42 FR 63774, Dec. 20, 1977, as amended at 52 FR 11443, Apr. 8, 1987; 52 FR 12641, Apr. 17, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.25

§ 103.25 Reports of transactions with foreign financial agencies.

- (a) *Promulgation of reporting requirements.* The Secretary, when he deems appropriate, may promulgate regulations requiring specified financial institutions to file reports of certain transactions with designated foreign financial agencies. If any such regulation is issued as a final rule without notice and opportunity for public comment, then a finding of good cause for dispensing with notice and comment in accordance with 5 U.S.C. 553(b) will be included in the regulation. If any such regulation is not published in the Federal Register, then any financial institution subject to the regulation will be named and personally served or otherwise given actual notice in accordance with 5 U.S.C. 553(b). If a financial institution is given notice of a reporting requirement under this section by means other than publication in the FEDERAL REGISTER, the Secretary may prohibit disclosure of the existence or provisions of that reporting requirement to the designated foreign financial agency or agencies and to any other party.
- (b) *Information subject to reporting requirements.* A regulation promulgated pursuant to paragraph (a) of this section shall designate one or more of the following categories of information to be reported:
- (1) Checks or drafts, including traveler's checks, received by respondent financial institution for collection or credit to the account of a foreign financial agency, sent by respondent financial institution to a foreign country for collection or payment, drawn by respondent financial institution on a foreign financial agency, drawn by a foreign financial agency on respondent financial institution—including the following information.

- (i) Name of maker or drawer;
 - (ii) Name of drawee or drawee financial institution;
 - (iii) Name of payee;
 - (iv) Date and amount of instrument;
 - (v) Names of all endorsers.
- (2) Transmittal orders received by a respondent financial institution from a foreign financial agency or sent by respondent financial institution to a foreign financial agency, including all information maintained by that institution pursuant to § 103.33.
- (3) Loans made by respondent financial institution to or through a foreign financial agency—including the following information:
- (i) Name of borrower;
 - (ii) Name of person acting for borrower;
 - (iii) Date and amount of loan;
 - (iv) Terms of repayment;
 - (v) Name of guarantor;
 - (vi) Rate of interest;
 - (vii) Method of disbursing proceeds;
 - (viii) Collateral for loan.
- (4) Commercial paper received or shipped by the respondent financial institution—including the following information:
- (i) Name of maker;
 - (ii) Date and amount of paper;
 - (iii) Due date;
 - (iv) Certificate number;
 - (v) Amount of transaction.
- (5) Stocks received or shipped by respondent financial institution—including the following information:
- (i) Name of corporation;
 - (ii) Type of stock;
 - (iii) Certificate number;
 - (iv) Number of shares;
 - (v) Date of certificate;
 - (vi) Name of registered holder;
 - (vii) Amount of transaction.
- (6) Bonds received or shipped by respondent financial institution—including the following information:
- (i) Name of issuer;
 - (ii) Bond number;
 - (iii) Type of bond series;
 - (iv) Date issued;
 - (v) Due date;
 - (vi) Rate of interest;
 - (vii) Amount of transaction;
 - (viii) Name of registered holder.
- (7) Certificates of deposit received or shipped by respondent financial institution—including the following information:
- (i) Name and address of issuer;
 - (ii) Date issued;
 - (iii) Dollar amount;
 - (iv) Name of registered holder;
 - (v) Due date;
 - (vi) Rate of interest;
 - (vii) Certificate number;
 - (viii) Name and address of issuing agent.
- (c) *Scope of reports.* In issuing regulations as provided in paragraph (a) of this section, the Secretary will prescribe:
- (1) A reasonable classification of financial institutions subject to or exempt from a reporting requirement;
 - (2) A foreign country to which a reporting requirement applies if the Secretary decides that applying the requirement to all foreign countries is unnecessary or undesirable;
 - (3) The magnitude of transactions subject to a reporting requirement; and
 - (4) The kind of transaction subject to or exempt from a reporting requirement.
- (d) *Form of reports.* Regulations issued pursuant to paragraph (a) of this section may prescribe the manner in which the information is to be reported. However, the Secretary may authorize a designated financial institution to report in a different manner if the institution demonstrates to the Secretary that the form of the required report is unnecessarily burdensome on the institution as prescribed; that a report in a different form will provide all the information the Secretary deems necessary; and that submission of the information in a different manner will not unduly hinder the effective administration of this part.
- (e) *Limitations.*
- (1) In issuing regulations under paragraph (a) of this section, the Secretary shall consider the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency.

- (2) The Secretary shall not issue a regulation under paragraph (a) of this section for the purpose of obtaining individually identifiable account information concerning a customer, as defined by the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), where that customer is already the subject of an ongoing investigation for possible violation of the Currency and Foreign Transactions Reporting Act, or is known by the Secretary to be the subject of an investigation for possible violation of any other Federal law.
- (3) The Secretary may issue a regulation pursuant to paragraph (a) of this section requiring a financial institution to report transactions completed prior to the date it received notice of the reporting requirement. However, with respect to completed transactions, a financial institution may be required to provide information only from records required to be maintained pursuant to Subpart C of this part, or any other provision of state or Federal law, or otherwise maintained in the regular course of business.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[50 FR 27824, July 8, 1985, as amended at 53 FR 10073, March 29, 1988; 60 FR 229, Jan. 3, 1995; 60 FR 44144, Aug. 24, 1995; 61 FR 14382, April 1, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.26

§ 103.26 Reports of certain domestic coin and currency transactions.

- (a) If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and/or reporting requirements are necessary to carry out the purposes of this part and to prevent persons from evading the reporting/recordkeeping requirements of this part, the Secretary may issue an order requiring any domestic financial institution or group of domestic financial institutions in a geographic area and any other person participating in the type of transaction to file a report in the manner and to the extent specified in such order. The order shall contain such information as the Secretary may describe concerning any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.
- (b) An order issued under paragraph (a) of this section shall be directed to the Chief Executive Officer of the financial institution and shall designate one or more of the following categories of information to be reported: Each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to such financial institution specified in the order, which involves all or any class of transactions in currency and/or monetary instruments equal to or exceeding an amount to be specified in the order.
- (c) In issuing an order under paragraph (a) of this section, the Secretary will prescribe:
- (1) The dollar amount of transactions subject to the reporting requirement in the order;
 - (2) The type of transaction or transactions subject to or exempt from a reporting requirement in the order;

- (3) The appropriate form for reporting the transactions required in the order;
 - (4) The address to which reports required in the order are to be sent or from which they will be picked up;
 - (5) The starting and ending dates by which such transactions specified in the order are to be reported;
 - (6) The name of a Treasury official to be contacted for any additional information or questions;
 - (7) The amount of time the reports and records of reports generated in response to the order will have to be retained by the financial institution; and
 - (8) Any other information deemed necessary to carry out the purposes of the order.
- (d) (1) No order issued pursuant to paragraph (a) of this section shall prescribe a reporting period of more than 60 days unless renewed pursuant to the requirements of paragraph (a).
- (2) Any revisions to an order issued under this section will not be effective until made in writing by the Secretary.
- (3) Unless otherwise specified in the order, a bank receiving an order under this section may continue to use the exemptions granted under § 103.22 of this part prior to the receipt of the order, but may not grant additional exemptions.
- (4) For purposes of this section, the term “geographic area” means any area in one or more States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, the territories and possessions of the United States, and/or political subdivision or subdivisions thereof, as specified in an order issued pursuant to paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[54 FR 33679, Aug. 16, 1989]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

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TITLE 31—Money and Finance: Treasury

SUBTITLE B—Regulations Relating to Money and Finance

CHAPTER I—Monetary Offices, Department of the Treasury

PART 103—Financial Recordkeeping and Reporting of Currency and Foreign Transactions

SUBPART B—Reports to be Made

31 C.F.R. 103.27

§ 103.27 Filing of reports.

- (a) (1) A report required by § 103.22(a) shall be filed by the financial institution within 15 days following the day on which the reportable transaction occurred.
- (2) A report required by § 103.22(g) shall be filed by the bank within 15 days after receiving a request for the report.
- (3) A copy of each report filed pursuant to § 103.22 shall be retained by the financial institution for a period of five years from the date of the report.
- (4) All reports required to be filed by § 103.22 shall be filed with the Commissioner of Internal Revenue, unless otherwise specified.
- (b) (1) A report required by § 103.23(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise specified by the Commissioner of Customs.

- (2) A report required by § 103.23(b) shall be filed within 15 days after receipt of the currency or other monetary instruments.
- (3) All reports required by § 103.23 shall be filed with the Customs officer in charge at any port of entry or departure, or as otherwise specified by the Commissioner of Customs. Reports required by § 103.23(a) for currency or other monetary instruments not physically accompanying a person entering or departing from the United States, may be filed by mail on or before the date of entry, departure, mailing or shipping. All reports required by § 103.23(b) may also be filed by mail. Reports filed by mail shall be addressed to the Commissioner of Customs, Attention: Currency Transportation Reports, Washington, DC 20229.
- (c) Reports required to be filed by § 103.24 shall be filed with the Commissioner of Internal Revenue on or before June 30 of each calendar year with respect to foreign financial accounts exceeding \$10,000 maintained during the previous calendar year.
- (d) Reports required by § 103.22, § 103.23 or § 103.24 shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.
- (e) Forms to be used in making the reports required by §§ 103.22 and 103.24 may be obtained from the Internal Revenue Service. Forms to be used in making the reports required by § 103.23 may be obtained from the U.S. Customs Service.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[52 FR 11443, Apr. 8, 1987; 52 FR 12641, Apr. 17, 1987, as amended at 53 FR 4138, Feb. 12, 1988. Redesignated at 54 FR 33678, Aug. 16, 1989]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports Required to be Made

31 C.F.R. 103.28

§ 103.28 Identification required.

Before concluding any transaction with respect to which a report is required under § 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity on whose behalf such transaction is to be effected. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a Provincial driver's license with indication of home address). Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (e.g., a drivers license or credit card). Where a person is a nonresident alien, the casino shall also record the person's passport number or a description of some other government document used to verify his identity. A bank signature card may be relied upon only if it was issued after documents establishing the identity of the individual were examined and notation of the specific information was made on the signature card. In each instance, the specific identifying information (i.e., the account number of the credit card, the driver's license number, etc.) used in verifying the identity of the customer shall be recorded on the report, and the mere notation of "known customer" or "bank signature card on file" on the report is prohibited.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[52 FR 11443, Apr. 8, 1987; 52 FR 12641, Apr. 17, 1987, as amended at 54 FR 3027, Jan. 23, 1989. Redesignated at 54 FR 33678, Aug. 16, 1989]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:**NOTES APPLICABLE TO ENTIRE TITLE:**

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART B—Reports to be Made

31 C.F.R. 103.29

§ 103.29 Purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks.

- (a) No financial institution may issue or sell a bank check or draft, cashier's check, money order or traveler's check for \$3,000 or more in currency unless it maintains records of the following information, which must be obtained for each issuance or sale of one or more of these instruments to any individual purchaser which involves currency in amounts of \$3,000–\$10,000 inclusive:
- (1) If the purchaser has a deposit account with the financial institution:
 - (i) (A) The name of the purchaser;
 - (B) The date of purchase;
 - (C) The type(s) of instrument(s) purchased;
 - (D) The serial number(s) of each of the instrument(s) purchased; and
 - (E) The amount in dollars of each of the instrument(s) purchased.
 - (ii) In addition, the financial institution must verify that the individual is a deposit accountholder or must verify the individual's identity. Verification may be either through a signa-

ture card or other file or record at the financial institution provided the deposit accountholder's name and address were verified previously and that information was recorded on the signature card or other file or record; or by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser. If the deposit accountholder's identity has not been verified previously, the financial institution shall verify the deposit accountholder's identity by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and shall record the specific identifying information (e.g., State of issuance and number of driver's license).

- (2) If the purchaser does not have a deposit account with the financial institution:
 - (i) (A) The name and address of the purchaser;
 - (B) The social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number;
 - (C) The date of birth of the purchaser;
 - (D) The date of purchase;
 - (E) The type(s) of instrument(s) purchased;
 - (F) The serial number(s) of the instrument(s) purchased; and
 - (G) The amount in dollars of each of the instrument(s) purchased.
 - (ii) In addition, the financial institution shall verify the purchaser's name and address by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and shall record the specific identifying infor-

mation (e.g., State of issuance and number of driver's license).

- (b) Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more shall be treated as one purchase. Multiple purchases during one business day totaling \$3,000 or more shall be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.
- (c) Records required to be kept shall be retained by the financial institution for a period of five years and shall be made available to the Secretary upon request at any time.

HISTORY:

[55 FR 20143, May 15, 1990; 59 FR 52252, Oct. 17, 1994]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

[EFFECTIVE DATE NOTE: 59 FR 52252, Oct. 17, 1994, which revised this section, became effective Oct. 17, 1994.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.31

§ 103.31 Determination by the Secretary.

The Secretary hereby determines that the records required to be kept by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

HISTORY:

37 FR 6912, Apr. 5, 1972.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.32

§ 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported to the Commissioner of Internal Revenue shall be retained by each person having a financial interest in or signature or other authority over any such account. Such records shall contain the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during the reporting period. Such records shall be retained for a period of 5 years and shall be kept at all times available for inspection as authorized by law. In the computation of the period of 5 years, there shall be disregarded any period beginning with a date on which the taxpayer is indicted or information instituted on account of the filing of a false or fraudulent Federal income tax return or failing to file a Federal income tax return, and ending with the date on which final disposition is made of the criminal proceeding.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 52 FR 11444, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R.

Chapter I. NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.33

§ 103.33 Records to be made and retained by financial institutions.

Each financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

- (a) A record of each extension of credit in an amount in excess of \$10,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;
- (b) A record of each advice, request, or instruction received or given regarding any transaction resulting (or intended to result and later cancelled if such a record is normally made) in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit, of more than \$10,000 to or from any person, account, or place outside the United States.
- (c) A record of each advice, request, or instruction given to another financial institution or other person located within or without the United States, regarding a transaction intended to result in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account or place outside the United States.
- (d) A record of such information for such period of time as the Secretary may require in an order issued under § 103.26(a), not to exceed five years.

(Approved by the Office of Management and Budget under control number 1505-0063)

- (e) *Banks.* Each agent, agency, branch, or office located within the United States of a bank is subject to the requirements of this paragraph (e) with respect to a funds transfer in the amount of \$3,000 or more:

- (1) *Recordkeeping requirements.*

- (i) For each payment order that it accepts as an originator's bank, a bank shall obtain and retain either the original or a microfilm, other copy, or electronic record of the following information relating to the payment order:

- (A) The name and address of the originator;
- (B) The amount of the payment order;
- (C) The execution date of the payment order;
- (D) Any payment instructions received from the originator with the payment order;
- (E) The identity of the beneficiary's bank; and
- (F) As many of the following items as are received with the payment order:²
 - (1) The name and address of the beneficiary;
 - (2) The account number of the beneficiary; and
 - (3) Any other specific identifier of the beneficiary.

- (ii) For each payment order that it accepts as an intermediary bank, a bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.
- (iii) For each payment order that it accepts as a beneficiary's bank, a bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.

- (2) *Originators other than established customers.* In the case of a payment order from an originator that is not an estab-

2. For funds transfers effected through the Federal Reserve's Fedwire funds transfer system, only one of the items is required to be retained, if received with the payment order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

lished customer, in addition to obtaining and retaining the information required in paragraph (e)(1)(i) of this section:

- (i) If the payment order is made in person, prior to acceptance the originator's bank shall verify the identity of the person placing the payment order. If it accepts the payment order, the originator's bank shall obtain and retain a record of the name and address, the type of identification reviewed, the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank shall obtain and retain a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.
 - (ii) If the payment order accepted by the originator's bank is not made in person, the originator's bank shall obtain and retain a record of name and address of the person placing the payment order, as well as the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the funds transfer. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank shall obtain and retain a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.
- (3) *Beneficiaries other than established customers.* For each payment order that it accepts as a beneficiary's bank for a beneficiary that is not an established customer, in addition to obtaining and retaining the information required in paragraph (e)(1)(iii) of this section:
- (i) if the proceeds are delivered in person to the beneficiary or its representative or agent, the beneficiary's bank shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the beneficiary's bank has knowledge that the person receiving the proceeds is not the beneficiary, the beneficiary's bank shall obtain and retain a record of the beneficiary's name and address, as well as the beneficiary's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person receiving the proceeds, or a notation in the record of the lack thereof.
 - (ii) if the proceeds are delivered other than in person, the beneficiary's bank shall retain a copy of the check or other instrument used to effect payment, or the information contained thereon, as well as the name and address of the person to which it was sent.

- (4) *Retrievability.* The information that an originator's bank must retain under paragraphs (e)(1)(i) and (e)(2) of this section shall be retrievable by the originator's bank by reference to the name of the originator. If the originator is an established customer of the originator's bank and has an account used for funds transfers, then the information also shall be retrievable by account number. The information that a beneficiary's bank must retain under paragraphs (e)(1)(iii) and (e)(3) of this section shall be retrievable by the beneficiary's bank by reference to the name of the beneficiary. If the beneficiary is an established customer of the beneficiary's bank and has an account used for funds transfers, then the information also shall be retrievable by account number. This information need not be retained in any particular manner, so long as the bank is able to retrieve the information required by this paragraph, either by accessing funds transfer records directly or through reference to some other record maintained by the bank.
- (5) *Verification.* Where verification is required under paragraphs (e)(2) and (e)(3) of this section, a bank shall verify a person's identity by examination of a document (other than a bank signature card), preferably one that contains the person's name, address, and photograph, that is normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with indication of home address).
- (6) *Exceptions.* The following funds transfers are not subject to the requirements of this section:
- (i) Funds transfers where the originator and beneficiary are any of the following:
 - (A) A bank;
 - (B) A wholly-owned domestic subsidiary of a bank chartered in the United States;
 - (C) A broker or dealer in securities;
 - (D) A wholly-owned domestic subsidiary of a broker or dealer in securities;
 - (E) The United States;
 - (F) A state or local government; or
 - (G) A federal, state or local government agency or instrumentality; and
 - (ii) Funds transfers where both the originator and the beneficiary are the same person and the originator's bank and the beneficiary's bank are the same bank.
- (f) *Nonbank financial institutions.* Each agent, agency, branch, or office located within the United States of a financial institution other than a bank is subject to the requirements of this paragraph (f) with respect to a transmittal of funds in the amount of \$3,000 or more:
- (1) *Recordkeeping requirements.*
 - (i) For each transmittal order that it accepts as a transmittor's financial institution, a financial institution shall obtain and retain either the original or a microfilm, other copy, or electronic record of the following information relating to the transmittal order:
 - (A) The name and address of the transmittor;
 - (B) The amount of the transmittal order;
 - (C) The execution date of the transmittal order;
 - (D) Any payment instructions received from the transmittor with the transmittal order;
 - (E) The identity of the recipient's financial institution;
 - (F) As many of the following items as are received with the transmittal order:³

3. For transmittals of funds effected through the Federal Reserve's Fedwire funds transfer system by a domestic broker or dealers in securities, only one of the items is required to be retained, if received with the transmittal order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

- (1) The name and address of the recipient;
 - (2) The account number of the recipient; and
 - (3) Any other specific identifier of the recipient; and
- (G) Any form relating to the transmittal of funds that is completed or signed by the person placing the transmittal order.
- (ii) For each transmittal order that it accepts as an intermediary financial institution, a financial institution shall retain either the original or a microfilm, other copy, or electronic record of the transmittal order.
- (iii) for each transmittal order that it accepts as a recipient's financial institution, a financial institution shall retain either the original or a microfilm, other copy, or electronic record of the transmittal order.
- (2) *Transmitters other than established customers.* In the case of a transmittal order from a transmitter that is not an established customer, in addition to obtaining and retaining the information required in paragraph (f)(1)(i) of this section:
 - (i) If the transmittal order is made in person, prior to acceptance the transmitter's financial institution shall verify the identity of the person placing the transmittal order. If it accepts the transmittal order, the transmitter's financial institution shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record the lack thereof. If the transmitter's financial institution has knowledge that the person placing the transmittal order is not the transmitter, the transmitter's financial institution shall obtain and retain a record of the transmitter's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record the lack thereof.
- (3) *Recipients other than established customers.* For each transmittal order that it accepts as a recipient's financial institution for a recipient that is not an established customer, in addition to obtaining and retaining the information required in paragraph (f)(1)(iii) of this section:
 - (i) If the proceeds are delivered in person to the recipient or its representative or agent, the recipient's financial institution shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as

social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record the lack thereof.

- (ii) If the transmittal order accepted by the transmitter's financial institution is not made in person, the transmitter's financial institution shall obtain and retain a record of the name and address of the person placing the transmittal order, as well as the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the transmittal of funds. If the transmitter's financial institution has knowledge that the person placing the transmittal order is not the transmitter, the transmitter's financial institution shall obtain and retain a record of the transmitter's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record the lack thereof.

- (3) *Recipients other than established customers.* For each transmittal order that it accepts as a recipient's financial institution for a recipient that is not an established customer, in addition to obtaining and retaining the information required in paragraph (f)(1)(iii) of this section:

- (i) If the proceeds are delivered in person to the recipient or its representative or agent, the recipient's financial institution shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as

well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the recipient's financial institution has knowledge that the person receiving the proceeds is not the recipient, the recipient's financial institution shall obtain and retain a record of the recipient's name and address, as well as the recipient's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person receiving the proceeds, or a notation in the record of the lack thereof.

- (ii) If the proceeds are delivered other than in person, the recipient's financial institution shall retain a copy of the check or other instrument used to effect payment, or the information contained thereon, as well as the name and address of the person to which it was sent.

- (4) *Retrievability.* The information that a transmitter's financial institution must retain under paragraphs (f)(1)(i) and (f)(2) of this section shall be retrievable by the transmitter's financial institution by reference to the name of the transmitter. If the transmitter is an established customer of the transmitter's financial institution and has an account used for transmittals of funds, then the information also shall be retrievable by account number. The information that a recipient's financial institution must retain under paragraphs (f)(1)(iii) and (f)(3) of this section shall be retrievable by the recipient's financial institution by reference to the name of the recipient. If the recipient is an established customer of the recipient's financial institution and has an account used for transmittals of funds, then the information also shall be retrievable by account number. This information need not be retained in any particular manner, so long as the financial institution is able to retrieve the

information required by this paragraph, either by accessing transmittal of funds records directly or through reference to some other record maintained by the financial institution.

- (5) *Verification.* Where verification is required under paragraphs (f)(2) and (f)(3) of this section, a financial institution shall verify a person's identity by examination of a document (other than a customer signature card), preferably one that contains the person's name, address, and photograph, that is normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with indication of home address).
- (6) *Exceptions.* The following transmittals of funds are not subject to the requirements of this section:
 - (i) Transmittals of funds where the transmitter and the recipient are any of the following:
 - (A) A bank;
 - (B) A wholly-owned domestic subsidiary of a bank chartered in the United States;
 - (C) A broker or dealer in securities;
 - (D) A wholly-owned domestic subsidiary of a broker or dealer in securities;
 - (E) The United States;
 - (F) A state or local government; or
 - (G) A federal, state or local government agency or instrumentality; and
 - (ii) Transmittals of funds where both the transmitter and the recipient are the same person and the transmitter's financial institution and the recipient's financial institution are the same broker or dealer in securities.
- (g) Any transmitter's financial institution or intermediary financial institution located within the United States shall include in any

transmittal order for a transmittal of funds in the amount of \$3,000 or more, information as required in this paragraph (g):

- (1) A transmittor's financial institution shall include in a transmittal order, at the time it is sent to a receiving financial institution, the following information:
 - (i) The name and, if the payment is ordered from an account, the account number of the transmittor;
 - (ii) The address of the transmittor, except for a transmittal order through Fedwire until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire format;
 - (iii) The amount of the transmittal order;
 - (iv) The execution date of the transmittal order;
 - (v) The identity of the recipient's financial institution;
 - (vi) As many of the following items as are received with the transmittal order:⁴
 - (A) The name and address of the recipient;
 - (B) The account number of the recipient;
 - (C) Any other specific identifier of the recipient; and
 - (vii) Either the name and address or numerical identifier of the transmittor's financial institution.
- (2) A receiving financial institution that acts as an intermediary financial institution, if it accepts a transmittal order, shall include in a corresponding transmittal order at the time it is sent to the next receiving financial institution, the following information, if received from the sender:
 - (i) The name and the account number of the transmittor;
 - (ii) The address of the transmittor, except for a transmittal order

through Fedwire until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire format;

- (iii) The amount of the transmittal order;
 - (iv) The execution date of the transmittal order;
 - (v) The identity of the recipient's financial institution;
 - (vi) As many of the following items as are received with the transmittal order:⁵
 - (A) The name and address of the recipient;
 - (B) The account number of the recipient;
 - (C) Any other specific identifier of the recipient; and
 - (vii) Either the name and address or numerical identifier of the transmittor's financial institution.
- (3) Safe harbor for transmittals of funds prior to conversion to the expanded Fedwire message format. The following provisions apply to transmittals of funds effected through the Federal Reserve's Fedwire funds transfer system or otherwise by a financial institution before the bank that sends the order to the Federal Reserve Bank or otherwise, completes its conversion to the expanded Fedwire message format.
 - (i) *Transmittor's financial institution.* A transmittor's financial institution will be deemed to be in compliance with the provisions of paragraph (g)(1) of this section if it:
 - (A) Includes in the transmittal order, at the time it is sent to the receiving financial institution, the information specified in paragraphs (g)(1)(iii) through (v), and the information specified in paragraph (g)(1)(vi) of this section to the extent that such information

4. For transmittals of funds effected through the Federal Reserve's Fedwire funds transfer system by a financial institution, only one of the items is required to be included in the transmittal order, if received with the sender's transmittal order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

5. For transmittals of funds effected through the Federal Reserve's Fedwire funds transfer system by a financial institution, only one of the items is required to be included in the transmittal order, if received with the sender's transmittal order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

has been received by the financial institution, and

- (B) Provides the information specified in paragraphs (g)(1)(i), (ii) and (vii) of this section to a financial institution that acted as an intermediary financial institution or recipient's financial institution in connection with the transmittal order, within a reasonable time after any such financial institution makes a request therefor in connection with the requesting financial institution's receipt of a lawful request for such information from a federal, state, or local law enforcement or financial regulatory agency, or in connection with the requesting financial institution's own Bank Secrecy Act compliance program.

- (ii) *Intermediary financial institution.* An intermediary financial institution will be deemed to be in compliance with the provisions of paragraph (g)(2) of this section if it:

- (A) Includes in the transmittal order, at the time it is sent to the receiving financial institution, the information specified in paragraphs (g)(2)(iii) through (g)(2)(vi) of this section, to the extent that such information has been received by the intermediary financial institution; and
- (B) Provides the information specified in paragraphs (g)(2)(i), (ii) and (vii) of this section, to the extent that such information has been received by the intermediary financial institution, to a financial institution that acted as an intermediary financial institution or recipient's financial institution in connection with the transmittal order, within a reasonable time after any such financial institution makes a request therefor in connection with the requesting financial institution's receipt of a lawful request for such information from a federal, state, or local law enforcement or regulatory agency, or in connection with the requesting financial institution's own Bank Secrecy Act compliance program.

tution's receipt of a lawful request for such information from a federal, state, or local law enforcement or regulatory agency, or in connection with the requesting financial institution's own Bank Secrecy Act compliance program.

- (iii) Obligation of requesting financial institution. Any information requested under paragraph (g)(3)(i)(B) or (g)(3)(ii)(B) of this section shall be treated by the requesting institution, once received, as if it had been included in the transmittal order to which such information relates.

- (4) *Exceptions.* The requirements of this paragraph (g) shall not apply to transmittals of funds that are listed in paragraph (e)(6) or (f)(6) of this section.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 52 FR 11444, Apr. 8, 1987; 54 FR 33679, Aug. 16, 1989; 60 FR 229, 237, Jan. 3, 1995; 60 FR 44144, Aug. 24, 1995; 61 FR 14382, 14383, 14385, 14386, 14388, April 1, 1996, as corrected at 61 FR 18250, April 25, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

[EFFECTIVE DATE NOTE: 60 FR 229, Jan. 3, 1995, which added paragraphs (e) and (f), became effective Jan. 1, 1996; 60 FR 237, Jan. 3, 1995, which added paragraph (g), became effective Jan. 1, 1996; 60 FR 44144, Aug. 24, 1995, delayed the effective date of the amendment at 60 FR 229, Jan. 3, 1995, from Jan. 1, 1996 to April 1, 1996; 61 FR 14382, April 1, 1996, further delayed the effective date of the amendments at 60 FR 229 and 237, Jan. 3, 1995, from April 1, 1996 to May 28, 1996; 61 FR 14383, 14385, April 1, 1996, which amended paragraphs (e) and (f), became effective May 28, 1996; 61 FR 14386, 14388, April 1, 1996, which revised the introductory text of paragraphs (g) and (g)(1), and added paragraphs (g)(3) and (g)(4), became effective May 28, 1996.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.34

§ 103.34 Additional records to be made and retained by banks.

- (a) (1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall, within 30 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 30-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.
- (2) The 30-day period provided for in paragraph (a)(1) of this section shall be

extended where the person opening the account has applied for a taxpayer identification or social security number on Form SS-4 or SS-5, until such time as the person maintaining the account has had a reasonable opportunity to secure such number and furnish it to the bank.

- (3) A taxpayer identification number required under paragraph (a)(1) of this section need not be secured for accounts or transactions with the following: (i) agencies and instrumentalities of Federal, state, local or foreign governments; (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court; (iii) aliens who are (A) ambassadors, ministers, career diplomatic or consular officers, or (B) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families; (iv) aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. 288), and the members of their immediate families; (v) aliens temporarily residing in the United States for a period not to exceed 180 days; (vi) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government; (vii) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter, (viii) a person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than \$10; (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than \$10; and non-resident aliens who are not engaged in a trade or business in the United States. In instances described in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall, within 15 days following the end of any

calendar year in which the interest accrued in that year is \$10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

- (4) The rules and regulations issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code of 1954 shall determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.
- (b) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:
 - (1) Each document granting signature authority over each deposit or share account, including any notations, if such are normally made, of specific identifying information verifying the identity of the signer (such as a driver's license number or credit card number);
 - (2) Each statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account;
 - (3) Each check, clean draft, or money order drawn on the bank or issued and payable by it, except those drawn for \$100 or less or those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are (i) dividend checks, (ii) payroll checks, (iii) employee benefit checks, (iv) insurance claim checks, (v) medical benefit checks, (vi) checks drawn on government agency accounts, (vii) checks drawn by brokers or dealers in securities, (viii) checks drawn on fiduciary accounts, (ix) checks drawn on other financial institutions, or pension or annuity checks;
 - (4) Each item in excess of \$100 (other than bank charges or periodic charges made pursuant to agreement with the customer), comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under paragraph (b)(3) of this section;
 - (5) Each item, including checks, drafts, or transfers of credit, of more than \$10,000 remitted or transferred to a person, account or place outside the United States;
 - (6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account or place outside the United States;
 - (7) Each check or draft in an amount in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a non-bank drawee for payment;
 - (8) Each item, including checks, drafts or transfers of credit, of more than \$10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a bank, broker or dealer in foreign exchange outside the United States;
 - (9) A record of each receipt of currency, other monetary instruments, investment securities or checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States; and
 - (10) Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of \$100. This subparagraph shall be applicable only with respect to demand deposits.
 - (11) A record containing the name, address, and taxpayer identification number, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.
 - (12) A record containing the name, address and taxpayer identification number, if available, of any person presenting a

certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

- (13) Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The slip or ticket shall record the amount of any currency involved.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[38 FR 2175, Jan. 22, 1973, as amended at 38 FR 3509, Feb. 7, 1973; 43 FR 21672, May 19, 1978; 52 FR 11444, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES: NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.35

§ 103.35 Additional records to be made and retained by brokers or dealers in securities.

- (a) (1) With respect to each brokerage account opened with a broker or dealer in securities after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such broker or dealer shall within 30 days from the date such account is opened, secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more

individuals, such broker or dealer shall secure and maintain a record of the social security number of an individual having a financial interest in that account. In the event that a broker or dealer has been unable to secure the identification required within the 30-day period specified, it shall nevertheless not be deemed to be in violation of this section if: (i) It has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. Where a person is a non-resident alien, the broker or dealer in securities shall also record the person's passport number or a description of some other government document used to verify his identity.

- (2) The 30-day period provided for in paragraph (a)(1) of this section shall be extended where the person opening the account has applied for a taxpayer identification or social security number on Form SS-4 or SS-5, until such time as the person maintaining the account has had a reasonable opportunity to secure such number and furnish it to the broker or dealer.
- (3) A taxpayer identification number for a deposit or share account required under paragraph (a)(1) of this section need not be secured in the following instances: (i) Accounts for public funds opened by agencies and instrumentalities of Federal, state, local, or foreign governments, (ii) accounts for aliens who are (a) ambassadors, ministers, career diplomatic or consular officers, or (b) naval, military or other attaches of foreign embassies, and legations, and for the members of their immediate families, (iii) accounts for aliens who are accredited representatives to international organizations which are entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), and for the members of their immediate fami-

lies, (iv) aliens temporarily residing in the United States for a period not to exceed 180 days, (v) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government, and (vi) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter.

(b) Every broker or dealer in securities shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

- (1) Each document granting signature or trading authority over each customer's account;
- (2) Each record described in § 240.17a-3(a) (1), (2), (3), (5), (6), (7), (8), and (9) of Title 17, Code of Federal Regulations;
- (3) A record of each remittance or transfer of funds, or of currency, checks, other monetary instruments, investment securities, or credit, of more than \$10,000 to a person, account, or place, outside the United States;
- (4) A record of each receipt of currency, other monetary instruments, checks, or investment securities and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account or place outside the United States.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[37 FR 26518, Dec. 13, 1972, as amended at 38 FR 2176, Jan. 22, 1973; 52 FR 11444, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.36

§ 103.36 Additional records to be made and retained by casinos.

[PUBLISHER'S NOTE: Paragraph (b)(7) was amended at 61 FR 7054, 7056, Feb. 23, 1996, effective Aug. 1, 1996. For the convenience of the user, paragraph (b)(7) has been set out twice below. The first version is effective until Aug. 1, 1996. The second version is effective Aug. 1, 1996.]

- (a) With respect to each deposit of funds, account opened or line of credit extended after the effective date of these regulations, a casino shall, at the time the funds are deposited, the account is opened or credit is extended, secure and maintain a record of the name, permanent address, and social security number of the person involved. Where the deposit, account or credit is in the names of two or more persons, the casino shall secure the name, permanent address, and social security number of each person having a financial interest in the deposit, account or line of credit. The name and address of such person shall be verified by the casino at the time the deposit is made, account opened, or credit extended. The verification shall be made by examination of a document of the type described in § 103.28, and the specific identifying information shall be recorded in the manner described in § 103.28. In the event that a casino has been unable to secure the required social security number, it shall not be deemed to be in violation of this section if (1) it has made a reasonable effort to secure such number and (2) it maintains a list containing the names and permanent addresses of those persons from who it has been unable to obtain social security numbers and makes the names and addresses of those persons available to the Secretary upon request. Where a person is a nonresident alien, the casino shall also record the person's passport number or a descrip-

tion of some other government document used to verify his identity.

- (b) In addition, each casino shall retain either the original or a microfilm or other copy or reproduction of each of the following:

- (1) A record of each receipt (including but not limited to funds for safekeeping or front money) of funds by the casino for the account (credit or deposit) of any person. The record shall include the name, permanent address and social security number of the person from whom the funds were received, as well as the date and amount of the funds received. If the person from whom the funds were received is a nonresident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded;
- (2) A record of each bookkeeping entry comprising a debit or credit to a customer's deposit account or credit account with the casino;
- (3) Each statement, ledger card or other record of each deposit account or credit account with the casino, showing each transaction (including deposits, receipts, withdrawals, disbursements or transfers) in or with respect to, a customer's deposit account or credit account with the casino;
- (4) A record of each extension of credit in excess of \$2500, the terms and conditions of such extension of credit, and repayments. The record shall include the customer's name, permanent address, social security number, and the date and amount of the transaction (including repayments). If the customer or person for whom the credit extended is a non-resident alien, his passport number or description of some other government document used to verify his identity shall be obtained and recorded;
- (5) A record of each advice, request or instruction received or given by the casino for itself or another person with respect to a transaction involving a person, account or place outside the United States (including but not limited to communications by wire, letter, or telephone). If the transfer outside the United States is on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the transfer is received from outside the United States on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the person for whom the transaction is being made is a non-resident alien the record shall also include the person's name, his passport number or a description of some other government document used to verify his identity;
- (6) Records prepared or received by the casino in the ordinary course of business which would be needed to reconstruct a person's deposit account or credit account with the casino or to trace a check deposited with the casino through the casino's records to the bank of deposit;
- (7) [Effective until Aug. 1, 1996.] All records, documents or manuals required to be maintained by a casino under state and local laws or regulations.
- (7) [Effective Aug. 1, 1996.] All records, documents or manuals required to be maintained by a casino under state and local laws or regulations, regulations of any governing Indian tribe or tribal government, or terms of (or any regulations issued under) any Tribal-State compacts entered into pursuant to the Indian Gaming Regulatory Act, with respect to the casino in question.
- (8) All records which are prepared or used by a casino to monitor a customer's gaming activity.
- (9) (i) A separate record containing a list of each transaction between the casino and its customers involving the following types of instruments having a face value of \$ 3,000 or more:
 - (A) Personal checks (excluding instruments which evidence credit granted by a casino strictly for gaming, such as markers);

- (B) Business checks (including casino checks);
 - (C) Official bank checks;
 - (D) Cashier's checks;
 - (E) Third-party checks;
 - (F) Traveler's checks; and
 - (G) Money orders.
- (ii) The list will contain the time, date, and amount of the transaction; the name and permanent address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; all reference numbers (e.g., casino account number, personal check number, etc.); and the name or casino license number of the casino employee who conducted the transaction. Applicable transactions will be placed on the list in the chronological order in which they occur.

(12) A copy of the compliance program described in § 103.54(a).

HISTORY:

[50 FR 5068, Feb. 6, 1985, as amended at 52 FR 11444, Apr. 8, 1987; 54 FR 1167, Jan. 12, 1989; 58 FR 13547, Mar. 12, 1994; 59 FR 61662, Dec. 1, 1994; 61 FR 7054, 7056, Feb. 23, 1996]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

[EFFECTIVE DATE NOTE: 61 FR 7054, 7056, Feb. 23, 1996, which added “, regulations of any governing Indian tribe or tribal government, or terms of (or any regulations issued under) any Tribal-State compacts entered into pursuant to the Indian Gaming Regulatory Act, with respect to the casino in question.” after “state and local laws or regulations,” is effective Aug. 1, 1996.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.37

§ 103.37 Additional records to be made and retained by currency dealers or exchangers.

(a) (1) After July 7, 1987, each currency dealer or exchanger shall secure and maintain a record of the taxpayer identification number of each person for whom a transaction account is opened or a line of credit is extended within 30 days after such account is opened or credit line extended. Where a person is a non-resident alien, the currency dealer or exchanger shall also record the person's passport number or a description of some other government document used to verify his identity. Where the account or credit line is in the names of two or more persons, the currency dealer or exchanger shall secure the taxpayer identification number of a person having a financial interest in the account or credit line. In the event that a currency dealer or exchanger has been unable to secure the identification required within the 30-day period specified, it shall nevertheless not be deemed to be in violation of this section if:

- (i) It has made a reasonable effort to secure such identification, and
 - (ii) It maintains a list containing the names, addresses, and account or credit line numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account or credit line numbers of those persons available to the Secretary as directed by him.
- (2) The 30-day period provided for in paragraph (a)(1) of this section shall be extended where the person opening the account or credit line has applied for a taxpayer identification or social security number on Form SS-4 or SS-5, until such time as the person maintaining the account or credit line has had a reasonable opportunity to secure such number and furnish it to the currency dealer or exchanger.

- (3) A taxpayer identification number for an account or credit line required under paragraph (a)(1) of this section need not be secured in the following instances:
 - (i) Accounts for public funds opened by agencies and instrumentalities of Federal, state, local or foreign governments,
 - (ii) Accounts for aliens who are—
 - (A) Ambassadors, ministers, career diplomatic or consular officers, or
 - (B) Naval, military or other attaches of foreign embassies, and legations, and for members of their immediate families,
 - (iii) Accounts for aliens who are accredited representatives to international organizations which are entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), and for the members of their immediate families,
 - (iv) Aliens temporarily residing in the United States for a period not to exceed 180 days,
 - (v) Aliens not engaged in a trade or business in the United States who are attending a recognized college or any training program, supervised or conducted by any agency of the Federal Government, and
 - (vi) Unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter.
- (b) Each currency dealer or exchanger shall retain either the original or a microfilm or other copy or reproduction of each of the following:
 - (1) Statements of accounts from banks, including paid checks, charges or other debit entry memoranda, deposit slips and other credit memoranda representing the entries reflected on such statements;
 - (2) Daily work records, including purchase and sales slips or other memoranda needed to identify and reconstruct currency transactions with customers and foreign banks;
 - (3) A record of each exchange of currency involving transactions in excess of \$1000, including the name and address of the customer (and passport number or taxpayer identification number unless received by mail or common carrier) date and amount of the transaction and currency name, country, and total amount of each foreign currency;
 - (4) Signature cards or other documents evidencing signature authority over each deposit or security account, containing the name of the depositor, street address, taxpayer identification number (TIN) or employer identification number (EIN) and the signature of the depositor or of a person authorized to sign on the account (if customer accounts are maintained in a code name, a record of the actual owner of the account);
 - (5) Each item, including checks, drafts, or transfers of credit, of more than \$10,000 remitted or transferred to a person, account or place outside the United States;
 - (6) A record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, or more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account or place outside the United States;
 - (7) Records prepared or received by a dealer in the ordinary course of business, that would be needed to reconstruct an account and trace a check in excess of \$100 deposited in such account through its internal recordkeeping system to its depository institution, or to supply a description of a deposited check in excess of \$100;
 - (8) A record maintaining the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and date of transaction;
 - (9) A system of books and records that will enable the currency dealer or exchanger to prepare an accurate balance sheet and income statement.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[52 FR 11444, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.38

§ 103.38 Nature of records and retention period.

- (a) Wherever it is required that there be retained either the original or a microfilm or other copy or reproduction of a check, draft, monetary instrument, investment security, or other similar instrument, there shall be retained a copy of both front and back of each such instrument or document, except that no copy need be retained of the back of any instrument or document which is entirely blank or which contains only standardized printed information, a copy of which is on file.
- (b) Records required by this subpart to be retained by financial institutions may be those made in the ordinary course of business by a financial institution. 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.
- (c) The rules and regulations issued by the Internal Revenue Service under 26 U.S.C. 6109 determine what constitutes a taxpayer

identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

- (d) All records that are required to be retained by this part shall be retained for a period of five years. Records or reports required to be kept pursuant to an order issued under § 103.26 of this part shall be retained for the period of time specified in such order, not to exceed five years. All such records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

(Approved by the Office of Management and Budget under control number 1505-0063)

HISTORY:

[37 FR 6912, Apr. 5, 1972. Redesignated at 50 FR 5068, Feb. 6, 1985, and further redesignated and amended at 52 FR 11444, 11445, Apr. 8, 1987; 54 FR 33679, Aug. 16, 1989]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART C—Records Required to be Maintained

31 C.F.R. 103.39

§ 103.39 Person outside the United States.

For the purposes of this subpart, a remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit to the domestic account of a person whose address is known by the person making the remittance or transfer, to be outside the United

States, shall be deemed to be a remittance or transfer to a person outside the United States, except that, unless otherwise directed by the Secretary, this section shall not apply to a transaction on the books of a domestic financial institution involving the account of a customer of such institution whose address is within approximately 50 miles of the location of the institution, or who is known to be temporarily outside the United States.

HISTORY:

[37 FR 6912, Apr. 5, 1972. Redesignated at 50 FR 5068, Feb. 6, 1985 and 52 FR 11444, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.41

§ 103.41 Dollars as including foreign currency.

Wherever in this part an amount is stated in dollars, it shall be deemed to mean also the equivalent amount in any foreign currency.

HISTORY:

37 FR 6912, Apr. 5, 1972.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.42

§ 103.42 Photographic or other reproductions of Government obligations.

Nothing herein contained shall require or authorize the microfilming or other reproduction of

- (a) Currency or other obligation or security of the United States as defined in 18 U.S.C. 8, or
- (b) Any obligation or other security of any foreign government, the reproduction of which is prohibited by law.

HISTORY:

37 FR 6912, Apr. 5, 1972.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.43

§ 103.43 Availability of information.

- (a) The Secretary may within his discretion disclose information reported under this part for any reason consistent with the purposes of the Bank Secrecy Act, including those set

- forth in paragraphs (b) through (d) of this section.
- (b) The Secretary may make any information set forth in any report received pursuant to this part available to another agency of the United States, to an agency of a state or local government or to an agency of a foreign government, upon the request of the head of such department or agency made in writing and stating the particular information desired, the criminal, tax or regulatory purpose for which the information is sought, and the official need for the information.
- (c) The Secretary may make any information set forth in any report received pursuant to this part available to the Congress, or any committee or subcommittee thereof, upon a written request stating the particular information desired, the criminal, tax or regulatory purpose for which the information is sought, and the official need for the information.
- (d) The Secretary may make any information set forth in any report received pursuant to this part available to any other department or agency of the United States that is a member of the Intelligence Community, as defined by Executive Order 12333 or any succeeding executive order, upon the request of the head of such department or agency made in writing and stating the particular information desired, the national security matter with which the information is sought and the official need therefor.
- (e) Any information made available under this section to other department or agencies of the United States, any state or local government, or any foreign government shall be received by them in confidence, and shall not be disclosed to any person except for official purposes relating to the investigation, proceeding or matter in connection with which the information is sought.
- (f) The Secretary may require that a state or local government department or agency requesting information under paragraph (b) of this section pay fees to reimburse the Department of the Treasury for costs incidental to such disclosure. The amount of such fees will be set in accordance with the statute on fees for government services, 31 U.S.C. 9701.

(Approved by the Office of Management and Budget under control number 1505-0104)

HISTORY:

[50 FR 42693, Oct. 22, 1985, as amended at 50 FR 46283, Nov. 7, 1985; 52 FR 35545, Sept. 22, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.44

§ 103.44 Disclosure.

All reports required under this part and all records of such reports are specifically exempted from disclosure under section 552 of Title 5, United States Code.

HISTORY:

37 FR 6912, Apr. 5, 1972.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.45

§ 103.45 Exceptions, exemptions, and reports.

- (a) The Secretary, in his sole discretion, may by written order or authorization make exceptions to or grant exemptions from the requirements of this part. Such exceptions or exemptions may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions. They shall, however, be applicable only as expressly stated in the order of authorization, and they shall be revocable in the sole discretion of the Secretary.
- (b) The Secretary shall have authority to further define all terms used herein.
- (c) (1) The Secretary may, as an alternative to the reporting and recordkeeping requirements for casinos in §§ 103.22(a)(2) and 103.25(a)(2), and 103.36, grant exemptions to the casinos in any state whose regulatory system substantially meets the reporting and recordkeeping requirements of this part.
- (2) In order for a state regulatory system to qualify for an exemption on behalf of its casinos, the state must provide:
 - (i) That the Treasury Department be allowed to evaluate the effectiveness of the state's regulatory system by periodic oversight review of that system;
 - (ii) That the reports required under the state's regulatory system be submitted to the Treasury Department within 15 days of receipt by the state;
 - (iii) That any records required to be maintained by the casinos relevant to any matter under this part and to which the state has access or maintains under its regulatory system be made available to the Treasury Department within 30 days of request;
 - (iv) That the Treasury Department be provided with periodic status reports on the state's compliance efforts and findings;

- (v) That all but minor violations of the state requirements be reported to Treasury within 15 days of discovery; and
 - (vi) That the state will initiate compliance examinations of specific institutions at the request of Treasury within a reasonable time, not to exceed 90 days where appropriate, and will provide reports of these examinations to Treasury within 15 days of completion or periodically during the course of the examination upon the request of the Secretary. If for any reason the state were not able to conduct an investigation within a reasonable time, the state will permit Treasury to conduct the investigation.
- (3) Revocation of any exemption under this subsection shall be in the sole discretion of the Secretary.

HISTORY:

[38 FR 2176, Jan. 22, 1973, as amended at 50 FR 5069, Feb. 6, 1985; 50 FR 36875, Sept. 10, 1985]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.46

§ 103.46 Enforcement.

- (a) Overall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated author-

ity under this part, is delegated to the Assistant Secretary (Enforcement).

- (b) Authority to examine institutions to determine compliance with the requirements of this part is delegated as follows:

- (1) To the Comptroller of the Currency with respect to those financial institutions regularly examined for safety and soundness by national bank examiners;
- (2) To the Board of Governors of the Federal Reserve System with respect to those financial institutions regularly examined for safety and soundness by Federal Reserve bank examiners;
- (3) To the Federal Deposit Insurance Corporation with respect to those financial institutions regularly examined for safety and soundness by FDIC bank examiners;
- (4) To the Federal Home Loan Bank Board with respect to those financial institutions regularly examined for safety and soundness by FHLBB bank examiners;
- (5) To the Chairman of the Board of the National Credit Union Administration with respect to those financial institutions regularly examined for safety and soundness by NCUA examiners.
- (6) To the Securities and Exchange Commission with respect to brokers or dealers in securities;
- (7) To the Commissioner of Customs with respect to §§ 103.23 and 103.48;
- (8) To the Commissioner of Internal Revenue with respect to all financial institutions, except brokers or dealers in securities, not currently examined by Federal bank supervisory agencies for soundness and safety.

- (c) Authority for investigating criminal violations of this part is delegated as follows:

- (1) To the Commissioner of Customs with respect to § 103.23;
- (2) To the Commissioner of Internal Revenue except with respect to § 103.23.

- (d) Authority for the imposition of civil penalties for violations of this part lies with the Assistant Secretary, and in the Assistant Secretary's absence, the Deputy Assistant Secretary (Law Enforcement).

- (e) Periodic reports shall be made to the Assistant Secretary by each agency to which compliance authority has been delegated under paragraph (b) of this section. These reports shall be in such a form and submit-

ted at such intervals as the Assistant Secretary may direct. Evidence of specific violations of any of the requirements of this part may be submitted to the Assistant Secretary at any time.

- (f) The Assistant Secretary or his delegate, and any agency to which compliance has been delegated under paragraph (b) of this section, may examine any books, papers, records, or other data of domestic financial institutions relevant to the recordkeeping or reporting requirements of this part.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 50 FR 42693, Oct. 22, 1985; 52 FR 11445, Apr. 8, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.47

§ 103.47 Civil penalty.

- (a) For any willful violation, committed on or before October 12, 1984, of any reporting requirement for financial institutions under this part or of any recordkeeping requirements of § 103.22, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not to exceed \$1,000.
- (b) For any willful violation committed after October 12, 1984 and before October 28, 1986, of any reporting requirement for financial institutions under this part or of the recordkeeping requirements of § 103.32, the

Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not to exceed \$10,000.

- (c) For any willful violation of any recordkeeping requirement for financial institutions, except violations of § 103.32, under this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not to exceed \$1,000.
- (d) For any failure to file a report required under § 103.23 or for filing such a report containing any material omission or misstatement, the Secretary may assess a civil penalty up to the amount of the currency or monetary instruments transported, mailed or shipped, less any amount forfeited under § 103.48.
- (e) For any willful violation of § 103.53 committed after January 26, 1987, the Secretary may assess upon any person a civil penalty not to exceed the amount of coins and currency involved in the transaction with respect to which such penalty is imposed. The amount of any civil penalty assessed under this paragraph shall be reduced by the amount of any forfeiture to the United States in connection with the transaction for which the penalty was imposed.
- (f) For any willful violation committed after October 27, 1986, of any reporting requirement for financial institutions under this part (except § 103.24, § 103.25 or § 103.32), the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not to exceed the greater of the amount (not to exceed \$100,000) involved in the transaction or \$25,000.
- (g) For any willful violation committed after October 27, 1986, of any requirement of § 103.24, § 103.25, or § 103.32, the Secretary may assess upon any person, a civil penalty:
 - (1) In the case of a violation of § 103.25 involving a transaction, a civil penalty not to exceed the greater of the amount (not to exceed \$100,000) of the transaction, or \$25,000; and
 - (2) In the case of a violation of § 103.24 or § 103.32 involving a failure to report the existence of an account or any identify-

ing information required to be provided with respect to such account, a civil penalty not to exceed the greater of the amount (not to exceed \$100,000) equal to the balance in the account at the time of the violation, or \$25,000.

- (h) For each negligent violation of any requirement of this part, committed after October 27, 1986, the Secretary may assess upon any financial institution a civil penalty not to exceed \$500.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 52 FR 11445, Apr. 8, 1987; 52 FR 12641, Apr. 17, 1987]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.48

§ 103.48 Forfeiture of currency or monetary instruments.

Any currency or other monetary instruments which are in the process of any transportation with respect to which a report is required under § 103.23 are subject to seizure and forfeiture to the United States if such report has not been filed as required in § 103.25, or contains material omissions or misstatements. The Secretary may, in his sole discretion, remit or mitigate any such forfeiture in whole or in part upon such terms and conditions as he deems reasonable.

HISTORY:

37 FR 6912, Apr. 5, 1972.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.49

§ 103.49 Criminal penalty.

- (a) Any person who willfully violates any provision of Title I of Pub. L. 91-508, or of this part authorized thereby may, upon conviction thereof, be fined not more than \$1,000 or be imprisoned not more than 1 year, or both. Such person may in addition, if the violation is of any provision authorized by Title I of Pub. L. 91-508 and if the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than 1 year, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.
- (b) Any person who willfully violates any provision of Title II of Pub. L. 91-508, or of this part authorized thereby, may, upon conviction thereof, be fined not more than \$250,000 or be imprisoned not more than 5 years, or both.
- (c) Any person who willfully violates any provision of Title II of Pub. L. 91-508, or of this part authorized thereby, where the violation is either
 - (1) Committed while violating another law of the United States, or
 - (2) Committed as part of a pattern of any illegal activity involving more than \$100,000 in any 12-month period, may, upon conviction thereof, be fined not more than \$500,000 or be imprisoned not more than 10 years, or both.
- (d) Any person who knowingly makes any false, fictitious or fraudulent statement or representation in any report required by this part

may, upon conviction thereof, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 50 FR 18479, May 1, 1985; 53 FR 4138, Feb. 12, 1988]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.50

§ 103.50 Enforcement authority with respect to transportation of currency or monetary instruments.

- (a) If a customs officer has reasonable cause to believe that there is a monetary instrument being transported without the filing of the report required by §§ 103.23 and 103.25 of this chapter, he may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer reasonably believes is transporting such instrument.
- (b) If the Secretary has reason to believe that currency or monetary instruments are in the process of transportation and with respect to which a report required under § 103.23 has not been filed or contains material omissions or misstatements, he may apply to any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:
 - (1) One or more designated persons.

- (2) One or more designated or described places or premises.
 - (3) One or more designated or described letters, parcels, packages, or other physical objects.
 - (4) One or more designated or described vehicles. Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.
- (c) This section is not in derogation of the authority of the Secretary under any other law or regulation.

HISTORY:

[37 FR 6912, Apr. 5, 1972, as amended at 50 FR 18479, May 1, 1985]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.51

§ 103.51 Access to records.

Except as provided in §§ 103.34(a)(1), 103.35(a)(1), and 103.36(a) and except for the purpose of assuring compliance with the record-keeping and reporting requirements of this part, this part does not authorize the Secretary or any other person to inspect or review the records required to be maintained by subpart C of this part. Other inspection, review or access to such records is governed by other applicable law.

HISTORY:

[50 FR 5069, Feb. 6, 1985]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.52

§ 103.52 Rewards for informants.

- (a) If an individual provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds \$50,000, for a violation of the provisions of the Act or of this part, the Secretary may pay a reward to that individual.
- (b) The Secretary shall determine the amount of the reward to be paid under this section; however, any reward paid may not be more than 25 percent of the net amount of the fine, penalty or forfeiture collected, or \$150,000, whichever is less.
- (c) An officer or employee of the United States, a State, or a local government who provides original information described in paragraph (a) in the performance of official duties is not eligible for a reward under this section.

HISTORY:

[50 FR 18479, May 1, 1985]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.53

§ 103.53 Structured transactions.

No person shall for the purpose of evading the reporting requirements of § 103.22 with respect to such transaction:

- (a) Cause or attempt to cause a domestic financial institution to fail to file a report required under § 103.22;
- (b) Cause or attempt to cause a domestic financial institution to file a report required under § 103.22 that contains a material omission or misstatement of fact; or
- (c) Structure (as that term is defined in § 103.11(gg) of this part) or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.

HISTORY:

[52 FR 11446, Apr. 8, 1987, as amended at 54 FR 3027, Jan. 23, 1989]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART D—General Provisions

31 C.F.R. 103.54

§ 103.54 Special rules for casinos.

(a) *Compliance programs.*

- (1) Each casino shall develop and implement a written program reasonably designed to assure and monitor compliance with the requirements set forth in 31 U.S.C. chapter 53, subchapter II and the regulations contained in this part.
- (2) At a minimum, each compliance program shall provide for:
 - (i) A system of internal controls to assure ongoing compliance;
 - (ii) Internal and/or external independent testing for compliance;
 - (iii) Training of casino personnel, including training in the identification of unusual or suspicious transactions, to the extent that the reporting of such transactions is hereafter required by this part, by other applicable law or regulation, or by the casino's own administrative and compliance policies;
 - (iv) An individual or individuals to assure day-to-day compliance;
 - (v) Procedures for using all available information to determine:
 - (A) When required by this part, the name, address, social security number, and other information, and verification of the same, of a person;
 - (B) When required by this part, the occurrence of unusual or suspicious transactions; and
 - (C) Whether any record as described in subpart C of this part must be made and retained; and
 - (vi) For casinos that have automated data processing systems, the use of automated programs to aid in assuring compliance.
- (b) *Special terms.* As used in this part, as applied to casinos:
 - (1) Business year means the annual accounting period, such as a calendar or fiscal year, by which a casino maintains its books and records for purposes of subtitle A of title 26 of the United States Code.
 - (2) Casino account number means any and all numbers by which a casino identifies a customer.
 - (3) Customer includes every person which is involved in a transaction to which this part applies with a casino, whether or

not that person participates, or intends to participate, in the gaming activities offered by that casino.

- (4) Gaming day means the normal business day of a casino. For a casino that offers 24 hour gaming, the term means that 24 hour period by which the casino keeps its books and records for business, accounting, and tax purposes. For purposes of the regulations contained in this part, each casino may have only one gaming day, common to all of its divisions.
- (5) Machine-readable means capable of being read by an automated data processing system.

(c) [Removed. See 59 FR 61662, Dec. 1, 1994]

HISTORY:

[58 FR 13549, Mar. 12, 1993; 58 FR 45263, Aug. 27, 1993; 59 FR 9088, Feb. 25, 1994; 59 FR 61662, Dec. 1, 1994; 60 FR 33725, June 29, 1995]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

[EFFECTIVE DATE NOTE: 60 FR 33725, June 29, 1995, which revised paragraph (a)(1) and substituted “unusual” for “usual” in paragraph (a)(2)(v)(B), became effective June 29, 1995.]

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.61

§ 103.61 General.

For any investigation for the purpose of civil enforcement of violations of the Currency and Foreign Transactions Reporting Act, as amended (31 U.S.C. 5311 through 5324), section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), section 411 of the National Housing Act

(12 U.S.C. 1730d), or Chapter 2 of Pub. L. 91-508 (12 U.S.C. 1951 et seq.), or any regulation under any such provision, the Secretary or delegate of the Secretary may summon a financial institution or an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of any of the records and reports required under the Currency and Foreign Transactions Reporting Act or this part to appear before the Secretary or his delegate, at a time and place named in the summons, and to give testimony, under oath, and be examined, and to produce such books, papers, records, or other data as may be relevant or material to such investigation.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.62

§ 103.62 Persons who may issue summons.

For purposes of this part, the following officials are hereby designated as delegates of the Secretary who are authorized to issue a summons under § 103.61, solely for the purposes of civil enforcement of this part:

- (a) *Office of the Secretary.* The Assistant Secretary (Enforcement), the Deputy Assistant Secretary (Law Enforcement), and the Director, Office of Financial Enforcement.
- (b) *Internal Revenue Service.* Except with respect to § 103.23 of this part, the Commis-

sioner, the Deputy Commissioner, the Associate Commissioner (Operations), the Assistant Commissioner (Examination), Regional Commissioners, Assistant Regional Commissioners (Examination), District Directors, District Examination Division Chiefs, and, for the purposes of perfecting seizures and forfeitures related to civil enforcement of this part, the Assistant Commissioner (Criminal Investigation), Assistant Regional Commissioners (Criminal Investigation), and District Criminal Investigation Division Chiefs.

- (c) *Customs Service.* With respect to § 103.23 of this part, the Commissioner, the Deputy Commissioner, the Assistant Commissioner (Enforcement), Regional Commissioners, Assistant Regional Commissioners (Enforcement), and Special Agents in Charge.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this

chapter: C.P.D. = Commissioner of the Public Debt. NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

are authorized to issue such a summons under § 103.62 of this part);

- (2) The address to which the person summoned shall report for the appearance;
- (3) The date and time of the appearance; and
- (4) The name, title, address, and telephone number of the person who has issued the summons.

- (b) *Summons of books, papers, records, or data.* Any summons issued under § 103.61 of this part to require the production of books, papers, records, or other data shall describe the materials to be produced with reasonable specificity, and shall state:

- (1) The name, title, address, and telephone number of the person to whom the materials shall be produced (who may be a person other than the persons who are authorized to issue such a summons under § 103.62 of this part);
- (2) The address at which the person summoned shall produce the materials, not to exceed 500 miles from any place where the financial institution operates or conducts business in the United States;
- (3) The specific manner of production, whether by personal delivery, by mail, or by messenger service;
- (4) The date and time for production; and
- (5) The name, title, address, and telephone number of the person who has issued the summons.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.63

§ 103.63 Contents of summons.

- (a) *Summons for testimony.* Any summons issued under § 103.61 of this part to compel the appearance and testimony of a person shall state:

- (1) The name, title, address, and telephone number of the person before whom the appearance shall take place (who may be a person other than the persons who

SUBPART E—Summons

31 C.F.R. 103.64

§ 103.64 Service of summons.

- (a) *Who may serve.* Any delegate of the Secretary authorized under § 103.62 of this part to issue a summons, or any other person authorized by law to serve summonses or other process, is hereby authorized to serve a summons issued under this part.
- (b) *Manner of service.* Service of a summons may be made—
 - (1) Upon any person, by registered mail, return receipt requested, directed to the person summoned;
 - (2) Upon a natural person by personal delivery; or
 - (3) Upon any other person by delivery to an officer, managing or general agent, or any other agent authorized to receive service of process.
- (c) *Certificate of service.* The summons shall contain a certificate of service to be signed by the server of the summons. On the hearing of an application for enforcement of the summons, the certificate of service signed by the person serving the summons shall be evidence of the facts it states.

HISTORY:
52 FR 23979, June 26, 1987.

AUTHORITY:
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:
NOTES APPLICABLE TO ENTIRE TITLE:
EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:
ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:
EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.65

§ 103.65 Examination of witnesses and records.

- (a) *General.* Any delegate of the Secretary authorized under § 103.62 of this part to issue a summons, or any officer or employee of the Treasury Department or any component thereof who is designated by that person (whether in the summons or otherwise), is hereby authorized to receive evidence and to examine witnesses pursuant to the summons. Any person authorized by law may administer any oaths and affirmations that may be required under this subpart.
- (b) *Testimony taken under oath.* Testimony of any person under this part may be taken under oath, and shall be taken down in writing by the person examining the person summoned or shall be otherwise transcribed. After the testimony of a witness has been transcribed, a copy of that transcript shall be made available to the witness upon request, unless for good cause the person issuing the summons determines, under 5 U.S.C. 555, that a copy should not be provided. If such a determination has been made, the witness shall be limited to inspection of the official transcript of the testimony.
- (c) *Disclosure of summons, testimony, or records.* Unless the Secretary or a delegate of the Secretary listed under § 103.62(a) of this part so authorizes in writing, or it is otherwise required by law, no delegate of the Secretary listed under § 103.62 (b) or (c) of this part or other officer or employee of the Treasury Department or any component thereof shall—
 - (1) Make public the name of any person to whom a summons has been issued under this part, or release any information to the public concerning that person or the issuance of a summons to that person prior to the time and date set for that person's appearance or production of records; or
 - (2) Disclose any testimony taken (including the name of the witness) or material presented pursuant to the summons, to any person other than an officer or

employee of the Treasury Department or of any component thereof.

Nothing in the preceding sentence shall preclude a delegate of the Secretary, or other officer or employee of the Treasury Department or any component thereof, from disclosing testimony taken, or material presented pursuant to a summons issued under this part, to any person in order to obtain necessary information for investigative purposes relating to the performance of official duties, or to any officer or employee of the Department of Justice in connection with a possible violation of Federal law.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

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EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.66

§ 103.66 Enforcement of summons.

In the case of contumacy by, or refusal to obey a summons issued to, any person under this part, the Secretary or any delegate of the Secretary listed under § 103.62 of this part shall refer the matter to the Attorney General or delegate of the Attorney General (including any United States Attorney or Assistant United States Attorney, as appropriate), who may bring an action to compel compliance with the summons in any court of the United States within the jurisdiction of which the investigation which gave rise to the

summons being or has been carried on, the jurisdiction in which the person summoned is a resident, or the jurisdiction in which the person summoned carries on business or may be found. When a referral is made by a delegate of the Secretary other than a delegate named in § 103.62(a) of this part, prompt notification of the referral must be made to the Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement). The court may issue an order requiring the person summoned to appear before the Secretary or delegate of the Secretary to produce books, papers, records, or other data, to give testimony as may be necessary in order to explain how such material was compiled and maintained, and to pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any case under this section may be served in any judicial district in which such person may be found.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

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NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART E—Summons

31 C.F.R. 103.67

§ 103.67 Payment of expenses.

Persons summoned under this part shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States. The United

States shall not be liable for any other expense incurred in connection with the production of books, papers, records, or other data under this part.

HISTORY:

52 FR 23979, June 26, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

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NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.70

§ 103.70 Scope.

This subpart provides that the Assistant Secretary (Enforcement), or his designee, either unilaterally or upon request, may issue administrative rulings interpreting the application of part 103.

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

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NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.71

§ 103.71 Submitting requests.

- (a) Each request for an administrative ruling must be in writing and contain the following information:
 - (1) A complete description of the situation for which the ruling is requested,
 - (2) A complete statement of all material facts related to the subject transaction,
 - (3) A concise and unambiguous question to be answered,
 - (4) A statement certifying, to the best of the requestor's knowledge and belief, that the question to be answered is not applicable to any ongoing state or federal investigation, litigation, grand jury proceeding, or proceeding before any other governmental body involving either the requestor, any other party to the subject transaction, or any other party with whom the requestor has an agency relationship,
 - (5) A statement identifying any information in the request that the requestor considers to be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, and the reason therefor,
 - (6) If the subject situation is hypothetical, a statement justifying why the particular situation described warrants the issuance of a ruling,
 - (7) The signature of the person making the request, or
 - (8) If an agent makes the request, the signature of the agent and a statement certifying the authority under which the request is made.
- (b) A request filed by a corporation shall be signed by a corporate officer and a request filed by a partnership shall be signed by a partner.
- (c) A request may advocate a particular proposed interpretation and may set forth the legal and factual basis for that interpretation.
- (d) Requests shall be addressed to: Director, FinCEN, Office of the Assistant Secretary (Enforcement), U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 4320, Washington, DC 20220.
- (e) The requester shall advise the Director, FinCEN, immediately in writing of any

subsequent change in any material fact or statement submitted with a ruling request in conformity with paragraph (a) of this section.

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

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

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NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.72

§ 103.72 Nonconforming requests.

The Director, Office of Financial Enforcement, shall notify the requester if the ruling request does not conform with the requirements of § 103.71. The notice shall be in writing and shall describe the requirements that have not been met. A request that is not brought into conformity with such requirements within 30 days from the date of such notice, unless extended for good cause by the Office of Financial Enforcement, shall be treated as though it were withdrawn.

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

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

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EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chap-

ters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

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NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.73

§ 103.73 Oral communications.

- (a) The Office of the Assistant Secretary (Enforcement) will not issue administrative rulings in response to oral requests. Oral opinions or advice by Treasury, the Customs Service, the Internal Revenue Service, the Office of the Comptroller of the Currency, or any other bank supervisory agency personnel, regarding the interpretation and application of this part, do not bind the Treasury Department and carry no precedential value.
- (b) A person who has made a ruling request in conformity with § 103.71 may request an opportunity for oral discussion of the issues presented in the request. The request should be made to the Director, Office of Financial Enforcement, and any decision to grant such a conference is wholly within the discretion of the Director. Personal conferences or telephone conferences may be scheduled only for the purpose of affording the requester an opportunity to discuss freely and openly the matters set forth in the administrative ruling request. Accordingly, the conferees will not be bound by any argument or position advocated or agreed to, expressly or impliedly, during the conference. Any new arguments or facts put forth by the requester at the meeting must be reduced to writing by the requester and submitted in conformity with § 103.71 before they may be considered in connection with the request.

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

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

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ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:
EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.74

§ 103.74 Withdrawing requests.

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

HISTORY:
 52 FR 35546, Sept. 22, 1987.

AUTHORITY:
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:
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EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

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NOTES APPLICABLE TO ENTIRE PART:
EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.75

§ 103.75 Issuing rulings.

The Assistant Secretary (Enforcement), or his designee may issue a written ruling interpreting

the relationship between part 103 and each situation for which such a ruling has been requested in conformity with § 103.71. A ruling issued under this section shall bind the Treasury Department only in the event that the request describes a specifically identified actual situation. A ruling issued under this section shall have precedential value, and hence may be relied upon by others similarly situated, only if it is published or will be published by the Office of Financial Enforcement in the **FEDERAL REGISTER**. Rulings with precedential value will be published periodically in the Federal Register and yearly in the Appendix to this part. All rulings with precedential value will be available by mail to any person upon written request specifically identifying the ruling sought. Treasury will make every effort to respond to each requestor within 90 days of receiving a request.

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

HISTORY:
 52 FR 35546, Sept. 22, 1987.

AUTHORITY:
AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:
NOTES APPLICABLE TO ENTIRE TITLE:
EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. **CROSS REFERENCE:** General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:
ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:
EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.76

§ 103.76 Modifying or rescinding rulings.

- (a) The Assistant Secretary (Enforcement), or his designee may modify or rescind any ruling made pursuant to § 103.75:
 - (1) When, in light of changes in the statute or regulations, the ruling no longer sets

forth the interpretation of the Assistant Secretary (Enforcement) with respect to the described situation,

- (2) When any fact or statement submitted in the original ruling request is found to be materially inaccurate or incomplete, or
 - (3) For other good cause.
- (b) Any person may submit to the Assistant Secretary (Enforcement) a written request that an administrative ruling be modified or rescinded. The request should conform to the requirements of § 103.71, explain why rescission or modification is warranted, and refer to any reasons in paragraph (a) of this section that are relevant. The request may advocate an alternative interpretation and may set forth the legal and factual basis for that interpretation.
- (c) Treasury shall modify an existing administrative ruling by issuing a new ruling that rescinds the relevant prior ruling. Once rescinded, an administrative ruling shall no longer have any precedential value.
- (d) An administrative ruling may be modified or rescinded retroactively with respect to one or more parties to the original ruling request if the Assistant Secretary determines that:
- (1) A fact or statement in the original ruling request was materially inaccurate or incomplete,
 - (2) The requestor failed to notify in writing the Office of Enforcement of a material change to any fact or statement in the original request, or
 - (3) A party to the original request acted in bad faith when relying upon the ruling.

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

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

NOTES APPLICABLE TO ENTIRE TITLE:

EDITORIAL NOTE: Other regulations issued by Department of the Treasury appear in Title 12, Chapter I; Title 19, Chapter I; Title 26, Chapter I; Title 27, Chapter I; Title 31, Chapters II, IV, V, VI, and VII, and Title 48, Chapter 10. CROSS REFERENCE: General Accounting Office: See 4 C.F.R. Chapter I.

NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.

SUBPART F—Administrative Rulings

31 C.F.R. 103.77

§ 103.77 Disclosing information.

- (a) Any part of any administrative ruling, including names, addresses, or information related to the business transactions of private parties, may be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. If the request for an administrative ruling contains information which the requestor wishes to be considered for exemption from disclosure under the Freedom of Information Act, the requestor should clearly identify such portions of the request and the reasons why such information should be exempt from disclosure.
- (b) A requestor claiming an exemption from disclosure will be notified, at least 10 days before the administrative ruling is issued, of a decision not to exempt any of such information from disclosure so that the underlying request for an administrative ruling can be withdrawn if the requestor so chooses.

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

HISTORY:

52 FR 35546, Sept. 22, 1987.

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

NOTES:

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NOTES APPLICABLE TO ENTIRE CHAPTER:

ABBREVIATION: The following abbreviation is used in this chapter: C.P.D. = Commissioner of the Public Debt.

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: Nomenclature changes for part 103 appear at 52 FR 11442, Apr. 8, 1987.