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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Parts 1010, 1020, 1021, 1022, 1023, 1024, 1025, and 1026

RIN 1506-AB32

Technical Amendments to Various Bank Secrecy Act Regulations

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

ACTION: Final rule.

SUMMARY: FinCEN is issuing this final rule to make a number of technical amendments. This final rule updates various sections of the regulations implementing the Bank Secrecy Act (“BSA”) by removing or replacing outdated references to obsolete BSA forms, removing references to outdated recordkeeping storage media, and replacing several other outdated terms and references.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1-800-767-2825 or 1-703-905-3591 (not a toll free number) and select option 3 for regulatory questions. E-mail inquiries can be sent to FRC@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The BSA, Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314 and 5316-5332, authorizes the Secretary of the Treasury (“Secretary”), among other things, to issue regulations

requiring persons to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, regulatory, and counter-terrorism matters. The regulations implementing the BSA appear at 31 CFR chapter X. The Secretary's authority to administer the BSA has been delegated to the Director of FinCEN.¹

II. Discussion of Changes

In 2010, FinCEN reorganized the BSA's implementing regulations previously appearing in part 103 of title 31 of the Code of Federal Regulations by transferring them to a new chapter in title 31—chapter X.² When chapter X was published, BSA reporting forms were specific to particular segments of the financial industry, and the names of those industry-specific forms currently appear in chapter X. FinCEN has since revised a number of forms so that they may be used by a range of industry segments and no longer carry industry-specific designations. The transition from industry-specific forms began by replacing the various currency transaction reports previously used by different industry segments, with an industry-wide, single BSA form for currency transactions—the Bank Secrecy Act Currency Transaction Report. FinCEN has also replaced the five industry-specific suspicious activity reports with a combined suspicious activity report, the Bank Secrecy Act Suspicious Activity Report, which is now used by various financial industry segments. This final rule revises the BSA regulations by updating them to reflect the names of the new reports.

A number of recordkeeping requirements in 31 CFR chapter X refer to the use of a type of data storage media—microfilm—that is no longer in wide use (or in many cases not even available) for copies of records required to be kept. This final rule removes

¹ Treasury Order 180–01 (Sept. 26, 2002).

² See 75 FR 5806 (Oct. 26, 2010).

those outdated references. If, however, a financial institution continues to use microfilm for copies, the rule change does not require the financial institution to use a different type of media for copies, nor does it require existing copies that were made on microfilm to be transferred to newer types of media.

Finally, this final rule replaces several other outdated terms or references where appropriate such as the reference to filing reports with the Commissioner of Internal Revenue (“IRS”). Effective July 1, 2011, all BSA reports are electronically filed with FinCEN, not the IRS.

III. Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act (“APA”), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons in the rules issued) that notice and public comment procedure on a rule is impracticable, unnecessary, or contrary to the public interest. Currently, 31 CFR chapter X contains references to outdated forms/reports and dated terminology that may be confusing to the public. The rule solely clarifies those terms and references and makes no substantive change to any reporting requirement. For these reasons, the agency has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment is unnecessary.

Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. FinCEN finds that there is good cause for shortened notice since the revisions

made by this final rule are minor, non-substantive, and technical. This final rule takes effect [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.³ As noted previously, FinCEN has determined that it is unnecessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Executive Order 13563 and 12866

FinCEN has determined that Executive Orders 13563 and 12866 do not apply to this final rulemaking.

VI. Paperwork Reduction Act Notices

There are no collection of information requirements in this final rule.

VII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (“Unfunded Mandates Act”), requires that an agency must prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that no portion of this final rule will result in expenditures by State, local, and tribal governments, or by the private sector, of \$100

³ See 5 U.S.C. 603 and 604.

million or more in any one year. Accordingly, this final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 31 CFR Parts 1010, 1020, 1021, 1022, 1023, 1024, 1025, and 1026

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010 – GENERAL PROVISIONS

1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1010.306 [Amended]

2. Amend § 1010.306 as follows:

a. In paragraph (a)(3), remove the words “the Commissioner of Internal Revenue” and add the word “FinCEN” in their place.

b. In paragraph (c), remove the words “the Commissioner of Internal Revenue” and add the word “FinCEN” in their place.

c. In paragraph (e), in the first sentence, remove the words “the Internal Revenue Service” and add the words “BSA E-Filing System” in their place and, in the second sentence, add the words “or FinCEN” after the words “U.S. Customs and Border Protection.”

§ 1010.410 [Amended]

3. Amend § 1010.410 by removing the words “microfilm or other” from the introductory text.

§ 1010.430 [Amended]

4. Amend § 1010.430 by removing the words “microfilm or other” in paragraph (a).

§ 1010.715 [Amended]

5. Amend § 1010.715 by removing “1506-0009” and adding “1506-0050” in its place.

§ 1010.940 [Amended]

6. Amend § 1010.940 in the introductory text by removing the words “microfilming or other.”

PART 1020 – RULES FOR BANKS

7. The authority citation for part 1020 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

8. Revise the heading for part 1020 to read as set forth above.

§ 1020.410 [Amended]

9. Amend § 1020.410 as follows:

- a. In paragraph (a) introductory text by removing the words “microfilm or other.”
- b. In paragraph (a)(1) by removing the words “microfilm, other” each place they appear.
- c. In paragraph (c) introductory text by removing the words “microfilm or other.”

PART 1021 – RULES FOR CASINOS AND CARD CLUBS

10. The authority citation for part 1021 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1021.320 [Amended]

11. Amend § 1021.320 as follows:

- a. In paragraph (b)(1) by removing the words “by Casinos (“SARC”)” and adding the word “(“SAR”)” in their place.
- b. In paragraph (b)(2) by removing the word “SARC” each place it appears and adding in its place the word “SAR.”
- c. In paragraph (b)(3) by removing the word “SARC” each place it appears and adding in its place the word “SAR.”
- d. In paragraph (c) by removing the word “SARC” and adding in its place the word “SAR.”
- e. In paragraph (d) by removing the word “SARC” each place it appears and adding in its place the word “SAR.”

§ 1021.410 [Amended]

12. Amend § 1021.410 in paragraph (b) introductory text by removing the words “microfilm or other.”

PART 1022 – RULES FOR MONEY SERVICES BUSINESSES

13. The authority citation for part 1022 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1022.320 [Amended]

14. Amend § 1022.320 as follows:

- a. In paragraph (b)(1) by removing the words “-MSB (“SAR-MSB”)” and adding the word “(“SAR”)” in their place.

b. In paragraph (b)(2) by removing the word “SAR-MSB” each place it appears and adding in its place the word “SAR.”

c. In paragraph (b)(3) by removing the word “SAR-MSB” each place it appears and adding in its place the word “SAR.”

d. In paragraph (c) by removing the word “SAR-MSB” each place it appears and adding in its place the word “SAR.”

§ 1022.380 [Amended]

15. Amend § 1022.380(b)(1)(i) by removing the words “the Enterprise Computing Center in Detroit of the Internal Revenue Service” and adding in their place the word “FinCEN.”

PART 1023 – RULES FOR BROKERS OR DEALERS IN SECURITIES

16. The authority citation for part 1023 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1023.320 [Amended]

17. Amend § 1023.320 as follows:

a. In paragraph (b)(1) by removing the words “by the Securities and Futures Industry (“SAR-SF”)” and adding the word “(“SAR”)” in their place.

b. In paragraph (b)(2) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

c. In paragraph (b)(3) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

d. In paragraph (c) introductory text by removing the word “SAR-SF” and adding in its place the word “SAR.”

e. In paragraph (d) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

PART 1024 – RULES FOR MUTUAL FUNDS

18. The authority citation for part 1024 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1024.320 [Amended]

19. Amend § 1024.320 as follows:

a. In paragraph (b)(1) by removing the words “by Securities and Futures Industries (“SAR-SF”)” and adding the word (“SAR”)” in their place.

b. In paragraph (b)(2) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

c. In paragraph (b)(3) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

d. In paragraph (b)(4) by removing the word “SAR-SF” and adding in its place the word “SAR.”

e. In paragraph (b)(5) by removing the word “SAR-SF” and adding in its place the word “SAR.”

f. In paragraph (c) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

PART 1025 – RULES FOR INSURANCE COMPANIES

20. The authority citation for part 1025 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1025.320 [Amended]

21. Amend § 1025.320 as follows:

- a. In paragraph (b)(1) by removing the words “by Insurance Companies (SAR-IC)” and adding the word “(“SAR”)” in their place.
- b. In paragraph (b)(2) by removing the word “SAR-IC” each place it appears and adding in its place the word “SAR.”
- c. In paragraph (b)(3) by removing the word “SAR-IC” each place it appears and adding in its place the word “SAR.”
- d. In paragraph (c) by removing the word “SAR-IC” and adding in its place the word “SAR.”
- e. In paragraph (d) by removing the word “SAR-IC” each place it appears and adding in its place the word “SAR.”

PART 1026 – RULES FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS IN COMMODITIES

22. The authority citation for part 1026 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 1026.320 [Amended]

23. Amend § 1026.320 as follows:

- a. In paragraph (b)(1) by removing the words “by Securities and Futures Industries (“SAR-SF”)” and adding the word “(“SAR”)” in their place.

- b. In paragraph (b)(2) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”
- c. In paragraph (b)(3) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”
- d. In paragraph (c) introductory text by removing the word “SAR-SF” and adding in its place the word “SAR.”
- e. In paragraph (d) by removing the word “SAR-SF” each place it appears and adding in its place the word “SAR.”

Dated: October 31, 2016.

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Financial Crimes Enforcement Network.

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