Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AB24

Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure; Withdrawal of Proposed Rule; Correction

AGENCY: Employment and Training Administration.

ACTION: Withdrawal of proposed rule; correction.

SUMMARY: This document corrects the proposed rule withdrawal document which was published Thursday, September 24, 2002, (67 FR 59797), concerning the temporary employment of nonimmigrant farmworkers.

DATE: The proposed rule was withdrawn as of September 24, 2002.

FOR FURTHER INFORMATION CONTACT: Charlene G. Giles, (202) 693–2950 (not a toll-free call).

SUPPLEMENTARY INFORMATION: In FR proposed rule document 02–24190 beginning on page 59797 in the issue of Tuesday, September 24, 2002, make the following corrections: On page 59797 in the first column, the **Federal Register** publication date was listed as July 13, 2001 due to a typographical error. The date should be changed to read July 13, 2000.

Signed at Washington DC, this 9th day of October 2002.

Emily Stover DeRocco,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 02–26382 Filed 10–16–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

[REG–116644–01]

RIN 1545–BA18

Receipt of Multiple Notices With Respect to Incorrect Taxpayer Identification Numbers; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under sections 3406 and 6724 of the Internal Revenue Code. The proposed regulations clarify the method of determining whether the payor has received two notices that a payee's taxpayer identification number (TIN) is incorrect.

DATES: The public hearing originally scheduled for October 22, 2002, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Associate Chief Counsel (Income Tax and Accounting), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on July 3, 2002, (67 FR 44579), announced that a public hearing was scheduled for October 22, 2002, at 10 a.m., in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 3406 and 6724 of the Internal Revenue Code. The public comment period for these proposed regulations expired on October 1, 2002.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of October 10, 2002, no one has requested to speak. Therefore, the public hearing scheduled for October 22, 2002, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 02–26451 Filed 10–16–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA36

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Insurance Companies Report Suspicious Transactions

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains an amendment to the regulations implementing the statute generally referred to as the Bank Secrecy Act. The amendment requires insurance companies to report suspicious transactions to the Department of the Treasury. The amendment constitutes a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury.

DATES: Written comments on all aspects of the proposal are welcome and must be received on or before December 16, 2002. *See* the Proposed Effective Date heading of the **SUPPLEMENTARY INFORMATION** for further dates.

ADDRESSES: Commenters are encouraged to submit comments by electronic mail because paper mail in the Washington, DC area may be delayed. Comments submitted by electronic mail may be sent to *regcomments@fincen.treas.gov* with the caption in the body of the text, ''ATTN: Section 352—Insurance Company Regulations.'' Comments (preferably an original and four copies) also may be submitted by paper mail to FinCEN, P.O. Box 39, Vienna, VA 22183, ATTN: Section 352—Insurance Company Regulations. Comments

should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Compliance and Regulatory Enforcement, FinCEN, (202) 354–6400; and Office of Chief Counsel, FinCEN, at (703) 905–3590 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act (BSA), Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311 *et seq.*) appear at 31 CFR part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

With the enactment of 31 U.S.C. 5318(g) in 1992,[2] Congress authorized the Secretary of the Treasury to require financial institutions to report suspicious transactions. As amended by the USA Patriot Act, subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2)(A) provides further that

> [i]f a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—
>
> (i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and
>
> (ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

Subsection (g)(3)(A) provides that neither a financial institution, nor any director, officer, employee, or agent of any financial institution

> that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, ''to the extent practicable and appropriate,'' to designate ''a single officer or agency of the United States to whom such reports shall be made.'' [3] The designated agency is in turn responsible for referring any report of a suspicious transaction to ''any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' *Id.* at subsection (g)(4)(B).

The provisions of 31 U.S.C. 5318(h), also added to the BSA in 1992 by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, authorize the Secretary of the Treasury ''[i]n order to guard against money laundering through financial institutions * * * [to] require financial institutions to carry out anti-money laundering programs.'' 31 U.S.C. 5318(h)(1). Those programs may include ''the development of internal policies, procedures, and controls'; ''the designation of a compliance officer'; ''an ongoing employee training program'; and ''an independent audit function to test programs.'' 31 U.S.C. 5318(h)(A–D).

Section 352 of the USA Patriot Act amended section 5318(h) to mandate compliance programs for all financial institutions defined in 31 U.S.C. 5312(a)(2). Section 352 of the USA Patriot Act became effective April 24, 2002. In April 2002, FinCEN deferred the anti-money laundering program requirement contained in 31 U.S.C. 5318(h) that would have applied to the insurance industry. 67 FR 21110 (April 29, 2002). The purpose of the deferral was to provide Treasury time to study the insurance industry and to consider how anti-money laundering controls could best be applied to that industry, taking into account differences in size, location, and services within the industry. In September 2002, FinCEN issued a notice of proposed rulemaking prescribing minimum standards applicable to insurance companies regarding the establishment of anti-money laundering programs. 67 FR 60625 (September 26, 2002). That proposed rule applies to businesses offering life insurance policies, annuity contracts, and other insurance products with similar features, and only requires insurance companies, rather than their agents or brokers, to establish and maintain an anti-money laundering program. This focused approach is reflected in the proposed rule contained in this document regarding the reporting of suspicious transactions.

B. Overview of Insurance Companies

Insurance can generally be described as ''a contract by which one party (the insurer), for a consideration that is usually paid in money, either in a lump sum or at different times during the continuance of the risk, promises to make a certain payment, usually of money, upon the destruction or injury of 'something' in which the other party (the insured) has an interest.''[4] In other words, the purpose of insurance is to transfer risk from the insured to the insurer. Insurance companies act as financial intermediaries by providing a financial risk transfer service that is funded by the payment of insurance premiums that they receive from policyholders.

The insurance industry in the United States can generally be divided into

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[1] Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (the USA Patriot Act), Public Law 107–56.

[2] 31 U.S.C. 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Public Law 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the Money Laundering Suppression Act), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[3] This designation does not preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency or another agency ''pursuant to any other applicable provision of law.''

[4] Lee R. Rus & Thomas F. Segalla, *Couch on Insurance* § 1:6, at 1–11 (3d ed.).

three major sectors based on a company's line of business: (1) life; (2) property/casualty; and (3) health.[5] Life insurance provides protection against the death of an individual in the form of payment to a beneficiary. Life insurance may also offer ''living benefits'' in the form of a cash surrender value or income payments. Recently, life insurers have developed products that offer a variety of investment components, such as interest indexed universal life (which has interest credits linked to external factors) and variable life (where the amount and duration of benefits are linked to investment experience), and that offer the insured the ability to overpay the premium for a fixed rate of return. Such products are marketed to investors as part of a diversified portfolio, often with tax benefits. Annuities, which are generally considered part of the life insurance sector, are purchased to provide a stipulated income stream over a period of time, and are frequently used for retirement planning purposes. Property insurance indemnifies an insured whose property is stolen, damaged, or destroyed by a covered peril. Casualty insurance provides coverage primarily for the liability of an individual or organization that results from negligent acts and omissions that cause bodily injury and/or property damage to a third party. Health insurance covers the costs of health care. Many insurance companies, particularly the larger ones, offer more than one kind of insurance product.

An insurance company may offer its products through a number of different distribution channels. Some insurance companies sell their products through direct response marketing in which the insurance company sells a policy directly to the insured. Other companies employ agents, who may either be captive or independent. Captive agents represent only one insurance company; independent agents may represent a variety of insurance carriers. Insurance may also be purchased through other third parties, all of whom must be licensed insurance agents, but may describe themselves to customers as financial planners or investment advisors. A limited number of companies offer certain types of policies via the Internet. A customer also may employ a broker (*i.e.*, a salesperson who searches the marketplace for insurance in the interest of the customer rather than the insurer) to obtain insurance.

The insurance industry in the United States has traditionally been subject to state, rather than federal, regulation.[6] Matters that are subject to state regulation include the overall organization and capitalization of insurance companies, permissible investments, licensing of insurance companies and insurance agents, and the form and content of policies. In some states, insurance companies are already subject to anti-money laundering statutes, currency reporting requirements, and/or suspicious activity reporting requirements. According to an unpublished survey conducted by the National Association of Insurance Commissioners (NAIC) of state statutes or rules applicable to insurance companies, thirty-eight states have money laundering statutes, twenty-one have currency reporting requirements, and one has a suspicious activity reporting requirement.

C. Importance of Suspicious Transaction Reporting in Treasury's Counter-Money Laundering Program

The Congressional authorization for requiring the reporting of suspicious transactions recognizes two basic points that are central to Treasury's counter-money laundering and counter-financial crime programs. First, it is to financial institutions that money launderers must go, either initially, to conceal their illegal funds, or eventually, to recycle those funds back into the economy. Second, the employees and officers of those institutions are often more likely than government officials to have a sense as to which transactions appear to lack commercial justification (or in the case of gaming establishments, transactions that appear to lack a reasonable relationship to legitimate wagering activities) or that otherwise cannot be explained as constituting a legitimate use of the insurance company's financial services.

The importance of extending suspicious transaction reporting to all relevant financial institutions, including non-bank financial institutions, relates to the concentrated scrutiny to which banks have been subject with respect to money laundering. This attention, combined with the cooperation that banks have given to law enforcement agencies and banking regulators to root out money laundering, have made it far more difficult than in the past to pass large amounts of cash directly into the nation's banks unnoticed. As it has become increasingly difficult to launder large amounts of cash through banks, criminals have turned to non-bank financial institutions, including insurance companies, in attempts to launder funds. Indeed, many non-banks have already recognized the increased pressure that money launderers have come to place upon their operations and the need for innovative programs of training and monitoring necessary to counter that pressure.

The reporting of suspicious transactions is also recognized as essential to an effective counter-money laundering program in the international consensus on the prevention and detection of money laundering. One of the central recommendations of the Financial Action Task Force Against Money Laundering (the FATF)[7] is that ''[i]f financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.'' *Financial Action Task Force Annual Report* (June 28, 1996), Annex 1 (Recommendation 15). The recommendation applies equally to banks and non-banks.[8]

Similarly, the European Community's *Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering* calls for member states to

> ensure that credit and financial institutions and their directors and employees cooperate fully with the authorities responsible for combating money laundering * * * by [in part] informing those authorities, on their own initiative, of any fact which might be an indication of money laundering.

[5] In 2000, the insurance industry in the United States consisted of more than 7000 domestic insurance companies and total gross direct premiums exceeded $956 billion. Net premiums written in both the life and property/casualty sectors grew annually between 1992 and 2000. In 2000, the insurance industry, including insurance companies, agents, brokers, and service personnel, employed approximately 2.3 million people. National Association of Insurance Commissioners, *2000 Insurance Department Resources Report.*

[6] *See* the McCarran-Ferguson Act, codified at 15 U.S.C. 1011 *et seq. See also* the Gramm-Leach-Bliley Act, Public Law 106–102, sections 104(a) and 301.

[7] The FATF is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering. Originally created by the G–7 nations, its membership now includes Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States, as well as the European Commission and the Gulf Cooperation Council.

[8] This recommendation revises the original recommendation, issued in 1990, that required institutions to be either ''*permitted or* required'' to report. (Emphasis supplied.) The revised recommendation reflects the international consensus that a mandatory suspicious transaction reporting system is essential to an effective national counter-money laundering program and to the success of efforts of financial institutions themselves to prevent and detect the use of their services or facilities by money launderers and others engaged in financial crime.

EC Directive, O.J. Eur. Comm. (No. L 166) 77 (1991), Article 6. *Accord, the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses of the Organization of American States,* OEA/Ser. P. AG/Doc. 2916/92 rev. 1 (May 23, 1992), Article 13, section 2.[9] All of these documents also recognize the importance of extending the counter-money laundering controls to ''non-traditional'' financial institutions, not simply to banks, both to ensure fair competition in the marketplace and to recognize that non-bank providers of financial services as well as depository institutions, are an attractive mechanism for, and are threatened by, money launderers. *See, e.g., Financial Action Task Force Annual Report, supra,* Annex 1 (Recommendation 8).

The international consensus is that insurance companies are vulnerable to abuse not only by money launderers but also by those wishing to finance terrorist activity. On October 31, 2001, FATF issued its *Special Recommendations on Terrorist Financing.* Special Recommendation Four provides that:

> [i]f financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

For purposes of FATF's Special Recommendation Four, the term ''financial institutions'' is intended to refer to both banks and non-bank financial institutions including, among other non-bank financial institutions, insurance companies.[10] Similarly, in January 2002, the International Association of Insurance Supervisors (IAIS)[11] issued anti-money laundering guidance for insurance supervisors and insurance entities stating that:

> [f]inancial institutions including insurance entities, have become major targets of money laundering operations because of the variety of services and investment vehicles offered that can be used to conceal the source of money. Money laundering poses significant reputational and financial risk to insurance entities, as well as the risk of criminal prosecution if insurance entities become involved in laundering of the proceeds of crime.[12]

D. Money Laundering and Terrorist Financing Risks Associated With Insurance Companies

FinCEN believes that the most significant money laundering and terrorist financing risks in the insurance industry are found in life insurance and annuity products because such products allow a customer to place large amounts of funds into the financial system and seamlessly transfer such funds to disguise their true origin. Permanent life insurance policies that have a cash surrender value are particularly inviting money laundering vehicles. Such cash value can be redeemed by a money launderer or can be used as a source of further investment of his tainted funds—for example, by taking out loans against such cash value. Term life insurance policies also pose a significant risk of money laundering because they possess elements of stored value and transferability that make them attractive to money launderers.[13] Similarly, annuity contracts also pose a significant money laundering risk because they allow a money launderer to exchange his illicit funds for an immediate or deferred income stream. The elements described above generally do not exist in insurance products offered by property and casualty insurers, much less by title or health insurers, although, to the extent that these sectors develop products with similar investment features, or features of stored value and transferability, the proposed rule includes a functional definition intended to include them within its scope.[14] FinCEN does not believe that money laundering risk should be predicated solely on the existence of an ability to obtain a refund on a purchased financial product. Rather, the focus should be on the ability of a money launderer to use a particular financial product to store and move illicit funds through the financial system. Therefore, the proposed rule captures only those insurance products with investment features, and insurance products possessing the ability to store value and to transfer that value to another person.

The identified instances of money laundering through insurance companies generally have been confined to life insurance products. Such products appear to have been particularly attractive to narcotics money launderers. For example, as a result of a joint investigation into the narcotics trafficking and money laundering activities of Colombian drug cartels, federal law enforcement authorities have discovered that these cartels have been hiding their illicit proceeds by, among other things, purchasing life insurance policies. The money laundering scheme involves the purchase, through several insurance brokers, of life insurance policies with cash surrender values in an offshore jurisdiction. Cartel associates are named as beneficiaries to such policies. The life insurance policies are funded by narcotics proceeds that are forwarded to the insurance companies by third parties from all over the world. Although the cash surrender value of the life insurance policies is often far less than the amount invested because of liquidation penalties, particularly if the policies only have been in existence for a few years, the beneficiaries soon elect to liquidate the policies for their cash surrender value. Although the beneficiaries thereby suffer a substantial financial loss, the funds received, in the form of insurance proceeds, are effectively laundered.[15] In another case, the U.S. Customs Service obtained the forfeiture of illicit drug money paid to purchase three term life insurance policies in Austin, Texas. The purchase

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[9] The Organization of American States (OAS) reporting requirement is linked to the provision of the Model Regulations that institutions ''shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.'' OAS Model Regulation, Article 13, section 1.

[10] *See Guidance Notes for the Special Recommendations on Terrorist Financing and the Self-Assessment Questionnaire,* Special Recommendation Four, paragraph 19 (March 27, 2002).

[11] The IAIS is an international association representing insurance regulatory authorities from more than 100 jurisdictions. Established in 1994, the IAIS was formed to promote cooperation among insurance regualtors, set international standards for insurance supervision, provide training to members, and coordinate work with regulators in other financial sectors and international financial institutions.

[12] *IAIS Anti-Money Laundering Guidance Notes for Insurance Supervisors and Insurance Entities,* January 2002, at 4.

[13] For example, a narcotics trafficker based in a foreign jurisdiction can purchase a term policy from a U.S. insurer with one large, up-front premium made up of illicit funds using an elderly or ill front person as the insured, and collect the cleansed proceeds when the insured dies.

[14] Theoretically, a money launderer could purchase property or casualty insurance for a business with tainted funds, and transfer the business to a confederate who could cancel the policy and obtain a refund of the cleansed funds. However, this does not mean that such products possess the elements of stored value and transferability that pose a significant money laundering risk. Underwriting practices generally would prevent the conveyance of a property and casualty insurance policy upon the purchase of a business, except in the case of a change in control of a public company, in which the costs and regulatory disclosures required to change control would appear to far outweigh any potential benefit to a would-be launderer. Moreover, as property and casualty insurers determine premiums by the value of the insured property and the perceived risk, the products they issue are not effective vehicles for laundering predetermined sums.

[15] *United States* v. *The Contents of Account No. 400941058 At JP Morgan Chase Bank, New York, New York,* Mag. Docket No. 02–1163 (S.D.N.Y. 2002) (Warrant of Seizure).

had been made with a number of structured monetary instruments, followed shortly afterward by an attempted redemption of the policies.[16] Law enforcement also has seen similar attempts to launder funds through the purchase of variable annuity contracts.[17] In addition, some financial institutions have reported to FinCEN suspicious transactions involving the structured purchase of life insurance and annuities, followed by the receipt of checks from life insurance companies, and the wiring of the funds to foreign countries.

The international community also has focused on life insurance policies and those insurance products with investment features as the target of anti-money laundering measures. The interpretative note to Recommendation 8 of the FATF Forty Recommendations, relating to the establishment of anti-money laundering programs, states that ''[t]he FATF [Forty] Recommendations should be applied in particular to life insurance and other investment products offered by insurance companies.'' In addition, the IAIS, in its anti-money laundering guidance to insurance businesses, states that such guidance is ''primarily aimed at life insurance business[es] which [are] the predominant class being used by money launderers.'' [18]

FinCEN understands that many insurance products are sold through agents of insurance companies. Because of their direct contact with customers, insurance agents are in a unique position to observe the kind of activity that may be indicative of money laundering. In some cases, suspicious activity detected by agents—such as the lump-sum purchase of a life insurance policy with multiple money orders or the purchase of annuity contracts by customers who express little or no interest in the details of such products, like surrender charges—may not be information that is normally known by the insurance company. This may be especially true when insurance agents sell investment products that do not need to be thoroughly scrutinized by the insurance company for underwriting purposes because they lack a health or death contingency. Thus, the proposed rule requires an insurance company to obtain all the relevant information necessary from its agents and brokers for purposes of filing reports of suspicious transactions. Whether an insurance company sells its products directly or through agents, FinCEN believes that it is appropriate to place on the insurance company (which develops the products and bears their risks) the responsibility for obtaining all relevant information necessary to comply effectively with a suspicious transaction reporting requirement.

31 U.S.C. 5318(g)(1) authorizes Treasury to require suspicious transaction reporting not only by financial institutions, but also by ''any director, officer, employee, or agent of any financial institution.'' This proposed rule addresses reporting by insurance companies, but not by individual employees or agents of an insurance company. FinCEN does not intend to reduce in any way the obligations of an insurance company's employees or agents, within the context of an insurance company's general regulatory or specific BSA compliance programs, but wants simply to avoid at this time creating an obligation on the part of insurance company employees and agents independent of those general obligations.

FinCEN anticipates that the measures currently employed by insurance companies to detect and combat fraud may assist such companies when implementing programs to detect and report suspicious transactions. However, insurance companies should note that the risks associated with fraud and money laundering are not identical, and that combating money laundering will necessarily require the establishment of additional measures. An anti-fraud policy is concerned that premium payments clear, not with whether they are made with structured instruments or from suspicious sources. Moreover, although a person who purchases a life insurance policy with a single, lump-sum payment and subsequently redeems the policy for its cash value may not inflict any economic harm on the insurance company, such a person can use this process to cleanse his illicit funds in exchange for paying the requisite penalty or fee.

II. Section-by-Section Analysis

Section 103.16(a) defines the key terms used in the proposed rule. The definition of an insurance company reflects Treasury's determination that a suspicious transaction reporting requirement should be imposed on those sectors of the insurance industry that pose the most significant risk of money laundering and terrorist financing. The definition of an insurance company therefore includes any person engaged within the United States as a business in: (1) The issuing, underwriting, or reinsuring of a life insurance policy; (2) the issuing, granting, purchasing, or disposing of any annuity contract; or (3) the issuing, underwriting, or reinsuring of any insurance product with investment features similar to those of a life insurance policy or an annuity contract, or which can be used to store value and transfer that value to another person. The sectors of the insurance industry offering life insurance and annuity products are both covered by the definition. The last category incorporates a functional approach, and encompasses any business offering currently, or in the future, any insurance product with an investment feature, and any insurance product possessing both stored value and transferability.[19]

The definition of an insurance company does not include insurance agents or brokers. Agents and brokers would therefore not be required under the rule independently to report suspicious transactions. However, as explained in greater detail below, an insurance company would be required to obtain all the relevant information necessary from its agents and brokers in order to comply with its requirement to report suspicious transactions. Comments are specifically invited on whether the above definition is appropriate in light of money laundering risks in the industry. Comments also are specifically invited on whether the final rule also should require insurance agents and brokers, or any subsets of agents or brokers, to report suspicious transactions.

Section 103.16(b) contains the rules setting forth the obligation of insurance companies to report suspicious transactions that are conducted or attempted by, at, or through an insurance company and involve or aggregate at least $5,000 in funds or other assets. It is important to recognize that transactions are reportable under

[16] *In the Matter of Seizure of the Cash Value and Advance Premium Deposit Funds, Case No. 2002–5506–000007.* (W.D. Tex. 2002).

[17] *See* Steven Brostoff, *Variable Product Companies Cautioned to be Vigilant On Money Laundering,* National Underwriter, July 1, 2002, at 40.

[18] *IAIS Anti-Money Laundering Guidance Notes for Insurance Supervisors and Insurance Entities,* January 2002, at 6.

[19] The definition of an insurance company is not intended to include those entities that offer annuities or similar products as an incidental part of their business—*e.g.,* tax-exempt organizations that offer charitable gift annuities (as defined in section 501(m)(5) of the Internal Revenue Code) as a vehicle for planned charitable giving, and that would not otherwise fall within the definition of an insurance company. FinCEN intends this exclusion to apply to the definition of an insurance company for purposes of its proposed rule requiring insurance companies to establish anti-money laundering programs. *See* 67 FR 60625 (September 26, 2002). Comments are specifically invited on the appropriate scope of the definition of an insurance company.

this rule and 31 U.S.C. 5318(g) whether or not they involve currency.[20]

Section 103.16(b)(1) contains the general statement of the obligation to file reports of suspicious transactions. The obligation extends to transactions conducted or attempted by, at, or through the insurance company. The second sentence of section 103.16(b)(1) is designed to encourage the reporting of transactions that appear relevant to violations of law or regulation, even in cases in which the rule does not explicitly so require, for example in the case of a transaction falling below the $5,000 threshold in the rule.

Section 103.16(b)(2) specifically describes the four categories of transactions that require reporting. An insurance company is required to report a transaction if it knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part): (i) Involves funds derived from illegal activity or is intended or conducted to hide or disguise funds or assets derived from illegal activity; (ii) is designed, whether through structuring or other means, to evade the requirements of the BSA; (iii) has no business or apparent lawful purpose, and the insurance company knows of no reasonable explanation for the transaction after examining the available facts; and (iv) involves the use of the insurance company to facilitate criminal activity. The final category of reportable transactions is intended to ensure that transactions involving legally derived funds that the insurance company suspects are being used for a criminal purpose, such as terrorist financing, are reported under the rule.[21]

A determination as to whether a report is required must be based on all the facts and circumstances relating to the transaction and customer of the insurance company in question. Different fact patterns will requires different judgments. In some cases, the facts of the transaction may indicate the need to report. Some examples of ''red flags'' associated with existing or potential customers include, but are not limited to, the following:

- The purchase of an insurance product that appears to be beyond a customer's normal pattern of business;
- Any unusual method of payment, particularly by cash or cash equivalents;
- The purchase of an insurance product with monetary instruments in structured amounts;
- The early termination of an insurance product, especially at a loss, or where cash was tendered and/or the refund check is directed to a third party;
- The transfer of the benefit of an insurance product to an apparently unrelated third party;
- Little or no concern by a customer for the performance of an insurance product, but much concern about the early termination of the product;
- The reluctance by a customer to provide identifying information when purchasing an insurance product, or who provides minimal or fictitious information; and
- The borrowing of the maximum cash surrender value of an insurance policy soon after paying for the policy.

The means of commerce and the techniques of money laundering are continually evolving, and there is no way to provide an exhaustive list of suspicious transactions. FinCEN expects to continue its dialogue with the insurance industry about the manner in which a combination of government guidance, training programs, and government-industry information exchange can smooth the way for operation of the new suspicious activity reporting system in as flexible and cost-efficient a way as possible.

Section 103.16(b)(3) provides that the obligation to identify and properly and timely to report a suspicious transaction rests with the insurance company involved in the transaction. Insurance agents and brokers are not independently required to report suspicious transactions. Section 103.16(b)(3) also states that to the extent that a transaction is conducted through an insurance agent or broker, an insurance company shall obtain all the relevant information necessary to ensure its compliance with the requirements of this section. As explained above, an insurance company's assessment of customer-related information, such as methods of payment, is a key component to an effective anti-money laundering program. Thus, an insurance company must obtain and assess all the relevant information necessary to comply effectively with its obligation to report suspicious transactions. Such information includes, but is not limited to, relevant customer information collected and maintained by the insurance company's agents and brokers, including observations and assessments by agents and brokers at the point-of-sale. The specific means to obtain such information is left to the discretion of the insurance company, although Treasury anticipates that the insurance company may need to amend existing agreements with its agents and brokers to ensure that the company receives necessary customer information.

The proposed rule is intended to require that an insurance company evaluate customer activity and relationships for money laundering risks, and design a suspicious transaction monitoring program that is appropriate for the particular insurance company in light of such risks. FinCEN anticipates that the design and implementation of such a program, rather than solely individual instances of non-reporting, will be instrumental when examining an insurance company for compliance with the requirements of the rule.

An insurance company's suspicious transaction monitoring program must ensure that the company is provided with customer information at the point-of-sale. FinCEN understands that obtaining such information will necessarily entail the cooperation of entities that are separate from an insurance company—namely, the company's independent agents and brokers. Comments are specifically invited on this approach, and the extent to which it may be necessary for FinCEN to place a direct obligation upon insurance agents and brokers for the purpose of ensuring an effective suspicious transaction reporting requirement.

Section 103.16(c) sets forth the filing procedures to be followed by insurance companies making reports of suspicious transactions. Within 30 days after an insurance company becomes aware of a suspicious transaction, the business must report the transaction by completing a Suspicious Activity Report by Insurance Companies (SAR–IC) and filing it in a central location, to be determined by FinCEN. The SAR–IC will resemble the SAR used by banks to report suspicious transactions, and a draft form will be made available for comment by publication in the **Federal Register**.

Supporting documentation relating to each SAR–IC is to be collected and maintained separately by the insurance

[20] Many currency transactions are *not* indicative of money laundering or other violations of law, a fact recognized both by Congress, in authorizing reform of the currency transaction reporting system, and by FinCEN in issuing rules to implement that system (*See* 31 U.S.C. 5313(d) and 31 CFR 103.22(d), 63 FR 50147 (September 21, 1998)). But many non-currency transactions, (for example, funds transfers) *can* indicate illicit activity, especially in light of the breadth of the statutes that make money laundering a crime. *See* 18 U.S.C. 1956 and 1957.

[21] The fourth reporting category has been added to the suspicious activity reporting rules promulgated since the passage of the USA Patriot Act to make it clear that the requirement to report suspicious activity encompasses the reporting of transactions in which legally derived funds are used for criminal activity, such as the financing of terrorism.

company and made available to law enforcement and regulatory agencies upon request. Special provision is made for situations requiring immediate attention, in which case insurance companies are to telephone the appropriate law enforcement authority in addition to filing a SAR–IC.

Section 103.16(d) provides an exception to the reporting requirement for false information submitted to the insurance company to obtain a policy or support a claim, unless such activity is related to money laundering or terrorist financing. Comments specifically are invited on whether the final rule should contain an express exception from reporting for any other particular activity in order to avoid unnecessary, duplicative reporting, or for any other reason.

Section 103.16(e) provides that filing insurance companies must maintain copies of SAR–ICs and the original related documentation for a period of five years from the date of filing. As indicated above, supporting documentation is to be made available to FinCEN and other appropriate law enforcement and regulatory authorities, on request.

Section 103.16(f) reflects the statutory bar against the disclosure of information filed in, or the fact of filing, a suspicious activity report (whether the report is required by the proposed rule or is filed voluntarily). *See* 31 U.S.C. 5318(g)(2). Thus, the paragraph specifically prohibits persons filing SAR–ICs from making any disclosure, except to appropriate law enforcement and regulatory agencies, about either the reports themselves or supporting documentation. 31 U.S.C. 5318(g), as amended by the USA Patriot Act, provides protection from liability for making reports of suspicious transactions, and for failures to disclose the fact of such reporting. Section 351 of that Act clarifies that the safe harbor applies to the voluntary reporting of suspicious transactions, and the proposed rule reflects this clarification.

Section 103.16(g) notes that compliance with the obligation to report suspicious transactions will be examined, and provides that failure to comply with the rule may constitute a violation of the BSA and the BSA regulations.

Section 103.16(h) provides that the new suspicious activity reporting rule is effective 180 days after the date on which the final regulations to which this notice of proposed rulemaking relates are published in the **Federal Register**.

Finally, section 103.16(i) states that an insurance company that is registered or is required to register with the Securities and Exchange Commission (SEC) shall be deemed to have satisfied the requirements of this section for those activities regulated by the SEC to the extent that the company complies with the suspicious activity reporting requirements applicable to such activities that are imposed under 31 CFR 103.19. Thus, for example, an insurance company that is required to register as a broker-dealer in securities because it sells variable annuities may satisfy the suspicious transaction reporting requirements under the proposed rule for that activity by complying with the suspicious transaction reporting requirements applicable to such activity that are under 31 CFR 103.19. To the extent that the issuance of annuities, or any other activity by an insurance company, is not addressed by 31 CFR 103.19, then such activity would be subject to the suspicious transaction reporting requirements of the proposed rule.

Proposed Effective Date

The suspicious transaction reporting rule would be effective 180 days after the date on which the final regulation to which this notice of proposed rulemaking relates is published in the **Federal Register**.

III. Request for Comments

FinCEN invites comment on all aspects of the proposed regulation, and specifically seeks comment on the following issues:

1. Whether the scope of the definition of an insurance company is appropriate in light of money laundering risks in the industry.

2. Whether the rule also should require insurance agents (captive, independent, or both), or any subset of agents, to report suspicious transactions to FinCEN.

3. Whether the rule also should require insurance brokers, or any subset of insurance brokers, to report suspicious transactions to FinCEN.

4. Whether any reporting dollar threshold, including the $5,000 threshold in the proposed rule, is appropriate.

5. Whether the exception from reporting for routine insurance fraud unrelated to money laundering or terrorist financing is appropriate, and whether any other exceptions should be included in the rule.

IV. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. The BSA authorizes Treasury to require financial institutions to report suspicious activities. The proposed rule requires insurance companies, rather than their agents or brokers, to file reports of suspicious transactions. Most insurance companies are larger businesses. In addition, Treasury has issued a separate proposed rule that requires insurance companies to establish and maintain anti-money laundering programs. 67 FR 60625 (September 26, 2002). Treasury anticipates that compliance with an anti-money laundering program requirement, in particular, the requirement for an insurance company to obtain all the relevant information necessary from its agents and brokers to make its program effective, will assist greatly in the reporting of suspicious transactions. Moreover, all insurance companies, in order to remain viable, have in place policies and procedures to prevent and detect fraud. Such anti-fraud measures should assist insurance companies in reporting suspicious transactions.

In drafting the rule, FinCEN carefully considered the importance of suspicious transaction reporting to the administration of the BSA. Congress considers suspicious transaction reporting a ''key ingredient in the anti-money laundering effort.'' [22] Moreover, the legislative history of the BSA demonstrates that money launderers will shift their activities away from more regulated to less regulated financial institutions.[23] Finally, there is no alternative mechanism for the government to obtain this information other than by requiring insurance companies to detect and report suspicious activity.

V. Paperwork Reduction Act

The collection of information contained in this proposed rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent (preferably by fax (202–395–6974)) to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by the Internet to

[22] H.R. Rep. No. 438, 103d Cong., 2d Sess. 15 (1994).

[23] ''It is indisputable that as banks have been more active in prevention and detection on money laundering, money launderers have turned in droves to the financial services offered by a variety of [non-bank financial institutions].'' *Id.* at 19.

jlackeyj@omb.eop.gov), with a copy to FinCEN by mail or the Internet at the addresses previously specified. Comments on the collection of information should be received by December 16, 2002. In accordance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information is presented to assist those persons wishing to comment on the information collection.

FinCEN anticipates that this proposed rule, if adopted as proposed, would result in the annual filing of a total of 1,200 suspicious activity reports by insurance companies. This result is an estimate based on the estimated number of respondents under the rule.

Description of Respondents: Insurance companies as defined in 31 CFR 103.16(a).

Estimated Number of Respondents: 1,200.

Frequency: As required.

Estimate of Burden: The reporting burden of 31 CFR 103.16 will be reflected in the burden of the form used by insurance companies to report suspicious transactions. The recordkeeping burden of 31 CFR 103.16 is estimated as an average of 3 hours per form, which includes internal review of records to determine whether the activity requires reporting.

Estimated Total Annual Recordkeeping Burden: 3,600 hours.

FinCEN specifically invites comments on: (a) Whether the proposed recordkeeping requirement is necessary for the proper performance of the mission of FinCEN, and whether the information will have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed recordkeeping requirement; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the recordkeeping requirement, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

In addition the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate and requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

VI. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Insurance companies, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Authority and Issuance

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

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

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

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

2. Subpart B of part 103 is amended by adding new § 103.16 to read as follows:

§ 103.16 Reports by insurance companies of suspicious transactions.

(a) *Definitions.* For purposes of this section:

(1) *Annuity contract* means any agreement between the insurer and the insured whereby the insurer promises to pay out a stipulated income or a varying income stream for a period of time.

(2) *Insurance company.* (i) Except as provided in paragraph (a)(2)(ii) of this section, the term ''insurance company'' means any person engaged within the United States as a business in:

(A) The issuing, underwriting, or reinsuring of a life insurance policy;

(B) The issuing, granting, purchasing, or disposing of any annuity contract; or

(C) The issuing, underwriting, or reinsuring of any insurance product with investment features similar to those of a life insurance policy or an annuity contract, or which can be used to store value and transfer that value to another person.

(ii) An insurance company shall not mean an agent or broker of any business described in paragraph (a)(2)(i) of this section.

(3) *Life insurance policy* means an agreement whereby the insurer is obligated to indemnify or to confer a benefit upon the insured or beneficiary to the agreement contingent upon the death of the insured, including any investment component of the policy.

(b) *General.* (1) Every insurance company shall file with FinCEN, 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. An insurance company may also file with FinCEN, by using the form specified in paragraph (c)(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 an insurance company, and involves or aggregates at least $5,000 in funds or other assets, and the insurance company knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (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) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332;

(iii) 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 insurance company knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the insurance company to facilitate criminal activity.

(3) The obligation to identify and properly and timely to report a suspicious transaction rests with the insurance company involved in the transaction. To the extent that a transaction involving an insurance

company is conducted through an insurance agent or broker, the insurance company shall obtain all the information necessary to ensure its compliance with the requirements of this section.

(c) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report by Insurance Companies (SAR–IC), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR–IC shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR–IC.

(3) *When to file.* A SAR–IC shall be filed no later than 30 calendar days after the date of the initial detection by the insurance company of facts that may constitute a basis for filing a SAR–IC under this section. If no suspect is identified on the date of such initial detection, an insurance company may delay filing a SAR–IC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the insurance company shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR–IC. Insurance companies wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–IC if required by this section.

(d) *Exception.* An insurance company is not required to file a SAR–IC to report the submission to it of false or fraudulent information to obtain a policy or make a claim, other than where such submission relates to money laundering or terrorist financing.

(e) *Retention of records.* An insurance company shall maintain a copy of any SAR–IC 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–IC. Supporting documentation shall be identified as such and maintained by the insurance company, and shall be deemed to have been filed with the SAR–IC. An insurance company shall make all supporting documentation available to FinCEN, any other appropriate law enforcement agencies, or state regulators upon request.

(f) *Confidentiality of reports; limitation of liability.* No insurance company, and no director, officer, employee, or agent of any insurance company, that 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–IC or the information contained in a SAR–IC, except where such disclosure is requested by FinCEN or another appropriate law enforcement or regulatory agency, shall decline to produce the SAR–IC or to provide any information that would disclose that a SAR–IC has been prepared or filed, citing this paragraph (f) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. An insurance company, and any director, officer, employee, or agent of such insurance company, that makes a report pursuant to this section (whether such report is required by this section or 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 extent provided by 31 U.S.C. 5318(g)(3).

(g) *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 constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

(h) *Effective date.* This section applies to transactions occurring 180 days after publication of the final rule based on this document.

(i) *Suspicious transaction reporting requirements for insurance companies registered or required to register with the Securities and Exchange Commission.* An insurance company that is registered or is required to register with the Securities and Exchange Commission shall be deemed to have satisfied the requirements of this section for those activities regulated by the Securities and Exchange Commission to the extent that the company complies with the suspicious activity reporting requirements applicable to such activities that are imposed under § 103.19.

Dated: October 10, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–26365 Filed 10–16–02; 8:45 am]

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA34

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Currency Dealers and Exchangers Report Suspicious Transactions

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is proposing to amend the Bank Secrecy Act regulations to require currency dealers and exchangers to report suspicious transactions to the Department of the Treasury, and to require all money services businesses to which the suspicious transaction reporting rule applies to report transactions involving suspected use of the money services business to facilitate criminal activity. The proposed amendments constitute a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury.

DATES: Written comments on all aspects of the proposal are welcome and must be received on or before December 16, 2002.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183–0039, *Attention:* NPRM—Suspicious Transaction Reporting—Currency Dealers and Exchangers. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.treas.gov,* with the caption in the body of the text, ''*Attention:* NPRM—Suspicious Transaction Reporting—Currency Dealers and Exchangers.'' For additional instructions on the submission of comments, see **SUPPLEMENTARY INFORMATION** under the heading ''Submission of Comments.''

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: David K. Gilles, Acting Assistant