

agreed that the exception should expire; seven commenters (three of them in one joint comment), opposed letting the exception expire; one commenter split the difference in favor of requiring the true name but keeping the exception for the true address; and the Federal Reserve's Wholesale Products Branch urged that FinCEN perform a study of the current and future uses of customer identification before determining whether it is necessary to let the exception lapse.

Industry Comments. The financial community commenters were divided on all the issues raised in the Notice.

Industry comments in favor of expiration. Comments received from community banks, independent banks, and credit unions supported letting the exception expire. They stated they are generally in compliance already, or can do so readily with the change of a form. They saw no technological barriers to compliance. For instance, one trade organization stated that its members using Fedwire are already in compliance, and that Fedwire has fields for entering true name and address information. According to this commenter, the Federal Home Loan Bank wire service also accommodates this information in its funds transmittal orders. Another organization, which counts 1,000 credit unions as its members, stated there will be no problem complying by June 1, 2003. It also stated that it believes having the true name and address fields in the transmittal orders will simplify compliance with Sec. 314 and OFAC searches.

Industry comments opposed to expiration. The contrary viewpoint was represented by several large banks and three major trade associations. They stated that compliance with the true name and address requirement would impose significant reprogramming costs upon them. According to one bank, customer names and addresses are stored in their CIFs. They may contain a variety of different addresses and name variations, especially for corporate customers. The wire transfer systems are separate from the CIFs and do not interface directly with them. Apparently, the banks would have to reprogram their CIFs to track and send true name and address information with individual payment orders. Although none of the commenters estimated the costs associated with such reprogramming, they contend it would be expensive. Given their other Patriot Act tasks, they believed it would be impossible to complete such

reprogramming before the deadline.¹ None of these commenters believed there is any harm to law enforcement from the exception, citing the paucity of requests for true name and address information they have received from law enforcement over the years. Finally, they did not see much potential for abuse. A joint comment by the trade associations stated that the use of pseudonym in private banking accounts (cited in the Notice) occurs only in exceptional cases such as for public figures, or to hide a name in an accumulation account that might tip off the market to a trading strategy.²

Government comments. Government comments were likewise divided. The Department of Justice strongly supported expiration of the exception, arguing that it has already outlived the reasons it was originally granted. Justice stated that it would be easier to obtain timely compliance with subpoenas if banks did not have to check additional records to find true name and address information.³ The Federal Reserve's Wholesale Products Office ("WPO"), however, stated that discussions with its customer advisory group lead it to believe that many banks are ill equipped to comply if the exception expires. The WPO also expressed concern about the effect expiration of the exception could have on straight-through processing initiatives, which aim at eliminating manual intervention in the flow of payment information from originator to beneficiary. Therefore, it proposes that FinCEN study the use of CIFs to determine the effect of the elimination of the exception would have, not only on current systems, but on the achievement of processing goals.

IV. Need for Further Study

FinCEN believes that the WPO is correct that further study is needed,

¹ In contrast, one bank stated it does not use coded customer names, and its comment was solely concerned with the issue of using true addresses because of the existence of alternate addresses for customers, which it believed would cost it \$20,000 in programming development costs to address.

² FinCEN notes, however, that these examples appear to violate the condition of the exception that the code be in use generally and that there be no alteration for a specific case.

³ In addition, the exception can prevent law enforcement and intelligence analysts from being able to track fully the flow of funds. Suspicious Activity Reports filed by intermediary institutions that do not have true name and address information are much less useful. Intercepts or undercover operations that obtain intermediary transmittals and cannot approach banks because of the sensitivity of their operations will lack information that may be critical to them. The use of coded information may prevent an intermediary bank from recognizing that it has records related to a government target, and, if the government has not also approached the transmitting bank, critical information may be missed.

albeit a study more precisely targeted at the benefits and burdens associated with the available alternatives. The technological issues involved in complying with the Travel Rule appear to vary among financial institutions, and it is not clear what the global costs would be of removing the exception entirely. Having gaps in the funds transfer process where the inability to recognize the identity of a funds transmitter could harm law enforcement investigations should be avoided where possible, as should imposing unnecessary costs at a time when financial institutions are working diligently to comply with numerous Patriot Act requirements. FinCEN therefore intends to perform a study to determine the best way to reconcile the competing interests by obtaining data on the costs and benefits of each available alternative (for example, it may be feasible to require true name information but not true address information). For the expected duration of the study (approximately 180 days), the CIF Exception will be temporarily extended.

V. FinCEN Issuance 2003-1

By virtue of the authority contained in 31 CFR 103.55(a) and (b), which has been delegated to the Director of FinCEN, the effective period of the CIF Exception, as such Exception is set forth (as part of FinCEN Issuance 98-1, 63 FR 3640 (January 6, 1998)) under the heading "Grant of Exceptions" (63 FR 3641) is extended so that the CIF Exception will expire on December 1, 2003 (if not revoked or modified with respect to such expiration date prior to that time), for transmittals of funds initiated after that date.

Dated: May 13, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 03-12371 Filed 5-16-03; 8:45 am]

BILLING CODE 4810-02-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 76, and 78

[CS Docket No. 00-78, FCC 03-55]

Implementation of Electronic Filing for the Multichannel Video and Cable Television Service and the Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.