

Transaction Report ("CTR") and editorial changes to the instructions. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before July 18, 2003.

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, Attention: PRA Comments—CTR Form. Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.treas.gov, again with a caption, in the body of the text, "Attention: PRA Comments—CTR Form."

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.

FOR FURTHER INFORMATION CONTACT: Russell Stephenson, Senior Compliance Administration Specialist, Office of Compliance and Regulatory Enforcement, FinCEN, at (202) 354-6015; and Judith R. Starr, Chief Counsel and Christine L. Schuetz, Attorney-Advisor, Office of Chief Counsel, FinCEN, at (703) 905-3590.

SUPPLEMENTARY INFORMATION:

Title: Currency Transaction Report (CTR).

OMB Number: 1506-0004.

Form Number: FinCEN Form 104 (Formerly 4789).

Abstract: The statute generally referred to as the "Bank Secrecy Act," Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹

¹ Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence

Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

Section 5313(a) authorizes the Secretary to issue regulations that require a report when "a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes." Regulations implementing section 5313(a) are found at 31 CFR 103.22. In general, the regulations require the reporting of transactions in currency in excess of \$10,000 a day. Financial institutions as defined in 31 U.S.C. 5312(a)(2) and 31 CFR 103.11 are subject to the currency transaction reporting requirement. The Currency Transaction Report, FinCEN 104 (Formerly Form 4789), is the form financial institutions use to comply with the currency transaction reporting requirements.

Action: This revision adds two data collection blocks to Part II—item "26a" for Foreign cash in" and item "27a" for "Foreign cash out—" and adds item "37a" to Part III for listing a foreign country code. The CTR instructions have been revised to address new items 26a, 27a and 37a.

Several editorial changes are also being made in this revision. As part of an effort to standardize BSA forms, FinCEN is renumbering the form, consistent with its new numbering system, as FinCEN Form 104. In other editorial changes, the Commodity Futures Trading Commission ("CFTC") has been added to the list of Federal Regulators for Part III,² and item 43 is clarified by noting that a Magnetic Ink

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"), Pub. L. 107-56.

² On May 5, 2003, FinCEN published a notice of proposed rulemaking that would amend the definition of financial institution to include futures commission merchants and introducing brokers in commodities. See, 68 FR 23653. Once the proposal is finalized, these businesses, which are regulated by the CFTC, will become subject to the general BSA reporting requirements, including reporting under 31 CFR 103.22.

Character Recognition (MICR) number is the financial institutions routing number. Finally, the Paperwork Reduction Act notice has been moved to page four.

Type of Review: Regular with changes to a currently approved information collection.

Affected public: Business or other for-profit and non-profit institutions.

Frequency: As required.

Estimated Burden: Reporting average of 19 minutes per response. Form record keeping average of 5 minutes per response, for a total of 24 minutes.

Estimated number of respondents = 19,000.

Estimated Total Annual Responses = 12,400,000.

Estimated Total Annual Burden Hours: 4,960,000

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

Request for Comments

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

Dated: May 8, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[Attachment: Currency Transaction Report, FinCEN Form 104 (Formerly Form 4789.)]

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