

Secrecy Act Reports System—Treasury/DO”. The systems of records were last published in their entirety on February 19, 2002, at 67 FR 7492, 67 FR 7496, and 67 FR 7498, respectively.

DATES: Comments must be received no later than December 26, 2003. The revised systems of records will be effective as of January 5, 2004, unless comments are received that result in a contrary determination and notice is published to that effect.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, FinCEN, P.O. Box 39, Vienna, VA 22183-0039, Attention: Revisions to PA Systems of Records—Comments. Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.treas.gov, with the above caption in the body of the text.

Inspection of comments. 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.

FOR FURTHER INFORMATION CONTACT: Christine Del Toro, Attorney-Advisor, Office of Chief Counsel, FinCEN, at (703) 905-3590.

SUPPLEMENTARY INFORMATION: The systems of records contain information collected under the authority of the Bank Secrecy Act, the popular name for Titles I and II of Public Law 91-508, as amended, and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5331. The regulations implementing the authority contained in the Bank Secrecy Act are found at 31 CFR part 103. The authority to administer 31 CFR part 103 has been delegated to FinCEN.

One FinCEN system of records is being revised with the addition of a new routine use to reflect that limited information relating to Money Services Businesses (“MSBs”) that have registered with FinCEN pursuant to 31 CFR 103.41 may be made available to the public. On August 20, 1999, FinCEN published a final rule requiring money services businesses to register with the Department of the Treasury on or before the later of December 31, 2001, and the end of the 180-day period beginning on the day following the date the business is established. See 64 FR 45438-45453 and 31 CFR 103.41. Money services businesses that are required to register with FinCEN include money transmitters, issuers, sellers, and redeemers of money orders and traveler’s checks, check cashers, and currency dealers and exchangers. See

§ 103.11(uu). To register, MSBs must complete and submit Treasury Department form TD F 90-22.55, “Registration of Money Services Business.” Agents of an MSB are not required to register, but are required to be listed on the agent list maintained by the MSB whose products and services the agent offers. See 31 CFR 103.41(a)(2).

The Secretary of the Treasury was granted statutory authority to require MSBs to register by section 408 of the Money Laundering Suppression Act of 1994 (“MLSA”), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103-325 (September 23, 1994). The Conference Report accompanying passage of the MLSA provides that:

[t]he Conferees recognize that the contents of both the registration of a money transmitting business and the agent list maintained by the business will include privileged and confidential trade secrets, commercial, and financial information * * *. The Conferees also recognize that some of the data to be contained in the registrations will have legitimate uses outside of law enforcement. It is the Conferees’ intent that the Secretary make such information available to the public in a manner which balances the need to protect confidential business information and the need of the public to have access to information about businesses which serve it. Accordingly, the Conferees expect the Secretary to make such information available to the public in as much detail as possible without revealing confidential information. Conference Report 103-652 Aug. 2, 1994 at 193.

Thus, the legislative history of the MLSA indicates that at least part of the information Treasury collects through the MSB registration process was intended by Congress to be made available to the public by Treasury. FinCEN has determined that making certain information about MSB registrants publicly available will be useful to consumers seeking to ensure that the MSBs with which they do business are in compliance with federal regulations, financial institutions charged with implementing anti-money laundering programs, and the law enforcement community.

For the reasons set forth above, the routine uses for the Bank Secrecy Act System of records are being amended to reflect that certain information contained in forms TD F 90-22.55, “Registration of Money Services Business” submitted by MSBs registering with FinCEN may be made available to the public in a manner that protects trade secrets, and privileged and confidential commercial or financial information.

In addition, the FinCEN systems of records are being revised to reflect certain changes in the law made by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. 107-56 (October 26, 2001). Prior to enactment of the USA PATRIOT Act, FinCEN was a Departmental Office of the Department of the Treasury. As a result, the name and number of each of FinCEN’s Privacy Act system of records corresponded with the names and numbers given to systems of records maintained by Treasury’s Departmental Offices. However, section 361 of the USA Patriot Act created a new section 310 in Subchapter I of chapter 3 of Title 31, United States Code, making FinCEN a Treasury Bureau. See Treasury Order 180-01, dated September 26, 2002. Therefore, the system numbers and names of FinCEN’s Privacy Act systems of records are being revised to reflect FinCEN’s status as a Treasury Bureau. FinCEN proposes to alter the system numbers and names of its Privacy Act systems of records as follows: “Treasury/FinCEN .001—FinCEN Data Base—Treasury/FinCEN,” “Treasury/FinCEN .002—Suspicious Activity Reporting System—Treasury/FinCEN,” and “Treasury/FinCEN .003—Bank Secrecy Act Reports System—Treasury/FinCEN.”

Because information in the systems of records may be retrieved by personal identifier, the Privacy Act of 1974 requires the Treasury to give general notice and seek public comments when making substantive changes to these Systems. The notices were last published in their entirety on February 19, 2002, beginning at 67 FR 7492. Treasury/DO .212 and Treasury/DO .213 were subsequently amended on May 24, 2002, at 67 FR 36669.

The altered system of records report, as required by 5 U.S.C. 552a(r), has been submitted to the Committee on Government Reform in the House of Representatives, the Committee on Governmental Affairs in the Senate, and Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” November 30, 2000.

For the reasons set forth above, FinCEN proposes to alter the FinCEN Data Base, the Suspicious Activity Reporting System, and the Bank Secrecy Act Reports System as follows: