## PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

1. The authority citation for part 100 continues to read as follows:

**Authority:** 30 U.S.C. 815, 820, 957.

2. Section 100.3 is amended by revising the first sentence of the introductory text of paragraph (a) and by revising the Penalty Conversion Table in paragraph (g) to read as follows:

**§ 100.3 Determination of penalty amount; regular assessment.**

(a) *General.* The operator of any mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of the Mine Act, shall be assessed a civil penalty of not more than $60,000. * * * * * * * * * *

(g) * * *

PENALTY CONVERSION TABLE

| Points | Penalty ($) |
|---|---|
| 20 or fewer | 72 |
| 21 | 80 |
| 22 | 87 |
| 23 | 94 |
| 24 | 101 |
| 25 | 109 |
| 26 | 120 |
| 27 | 131 |
| 28 | 142 |
| 29 | 153 |
| 30 | 164 |
| 31 | 178 |
| 32 | 193 |
| 33 | 207 |
| 34 | 221 |
| 35 | 237 |
| 36 | 254 |
| 37 | 273 |
| 38 | 291 |
| 39 | 310 |
| 40 | 327 |
| 41 | 354 |
| 42 | 383 |
| 43 | 409 |
| 44 | 437 |
| 45 | 463 |
| 46 | 500 |
| 47 | 536 |
| 48 | 629 |
| 49 | 749 |
| 50 | 878 |
| 51 | 1,033 |
| 52 | 1,198 |
| 53 | 1,376 |
| 54 | 1,566 |
| 55 | 1,769 |
| 56 | 2,003 |
| 57 | 2,252 |
| 58 | 2,515 |
| 59 | 2,793 |
| 60 | 3,086 |
| 61 | 3,419 |
| 62 | 3,770 |
| 63 | 4,137 |
| 64 | 4,521 |
| 65 | 4,856 |
| 66 | 5,099 |
| 67 | 5,342 |
| 68 | 5,585 |
| 69 | 5,828 |
| 70 | 6,071 |
| 71 | 6,374 |
| 72 | 6,678 |
| 73 | 6,981 |
| 74 | 7,285 |
| 75 | 7,588 |
| 76 | 7,892 |
| 77 | 8,499 |
| 78 | 9,106 |
| 79 | 9,713 |
| 80 | 10,321 |
| 81 | 11,535 |
| 82 | 12,749 |
| 83 | 13,963 |
| 84 | 15,177 |
| 85 | 16,392 |
| 86 | 18,213 |
| 87 | 20,642 |
| 88 | 23,070 |
| 89 | 25,498 |
| 90 | 27,927 |
| 91 | 30,355 |
| 92 | 33,391 |
| 93 | 36,427 |
| 94 | 39,462 |
| 95 | 42,498 |
| 96 | 45,533 |
| 97 | 48,569 |
| 98 | 51,605 |
| 99 | 54,640 |
| 100 | 60,000 |

* * * * *

3. Section 100.4 is amended by revising paragraph (a) to read as follows:

**§ 100.4 Determination of penalty; single penalty assessment.**

(a) An assessment of $60 may be imposed as the civil penalty where the violation is not reasonably likely to result in a reasonably serious injury or illness (non-S&S) and is abated within the time set by the inspector.

(1) If the violation is not abated within the time set by the inspector, the violation will not be eligible for the $60 single penalty and will be processed through either the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5).

(2) If the violation meets the criteria for excessive history under paragraph (b) of this section, the violation will not be eligible for the $60 single penalty and will be processed through the regular assessment provision (§ 100.3).

* * * * *

4. Section 100.5 is amended by revising paragraph (c) to read as follows:

**§ 100.5 Determination of penalty; special assessment.**

* * * * *

(c) Any operator who fails to correct a violation for which a citation has been issued under section 104(a) of the Mine Act within the period permitted for its correction may be assessed a civil penalty of not more than $6,500 for each day during which such failure or violation continues.

* * * * *

[FR Doc. 03–3160 Filed 2–7–03; 8:45 am]

BILLING CODE 4510–43–P

## 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:** Final rule.

**SUMMARY:** This document contains amendments to the regulations implementing the statute generally referred to as the Bank Secrecy Act. The amendments require currency dealers and exchangers to report suspicious transactions to the Department of the Treasury. Further, the amendments 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 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. This document also contains a technical correction to 31 CFR 103.19, changing the name of the form by which brokers and dealers in securities shall report suspicious transactions.

**DATES:** *Effective Date:* March 12, 2003.

*Applicability Date:* The applicability date is August 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** David M. Vogt, Acting Executive Associate Director, Office of Regulatory Programs, FinCEN, (202) 354–6400; and Judith R. Starr, Chief Counsel, and Christine L. Schuetz, Attorney-Advisor,

Office of Chief Counsel, FinCEN, at (703) 905–3590.

**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. 5311–5314, 5316–5332, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and to 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. 5311–5314, 5316–5332) 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

> If 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).

### *B. Suspicious Activity Reporting by Money Services Businesses*

For purposes of regulations implementing the BSA, a ''money services business'' includes each agent, agency, branch, or office within the United States of any person (except a bank or person registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission) doing business in one or more of the following capacities:

- Currency dealer or exchanger;
- Check casher;
- Issuer of traveler's checks, money orders, or stored value;
- Seller or redeemers of traveler's checks, money orders, or stored value;
- Money transmitter; and
- The United States Postal Service (except with regard to the sale of postage or philatelic products).

Persons who do not exchange currency, cash checks, or issue, sell, or redeem traveler's checks, money orders, or stored value in an amount greater than $1,000 to any person on any day in one or more transactions are not money services businesses for purposes of the BSA.[4]

On March 14, 2000, FinCEN published a final rule requiring certain money services business to report suspicious transactions to FinCEN beginning January 1, 2002 (the ''MSB SAR rule'').[5] The MSB SAR rule as originally promulgated, found at 31 CFR 103.20, required certain money services businesses to file a report of any transaction conducted or attempted by, at, or through the money services business, involving or aggregating at least $2,000 (or $5,000 to the extent that the identification of transactions required to be reported is derived from a review of clearance records of money orders or traveler's checks that have been sold or processed), when the money services business knows, suspects, or has reason to suspect that the transaction falls into one of three reporting categories contained in the rule. The first reporting category, described in 31 CFR 103.20(a)(2)(i), includes transactions involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second category, described in 31 CFR 103.20(a)(2)(ii), involves transactions designed to evade the requirements of the BSA. The third category, described in 31 CFR 103.20(a)(2)(iii), involves transactions that appear to have no business purpose or that vary so substantially from normal commercial activities or

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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, 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, 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.'' 31 U.S.C. 5318(g)(4)(C).

[4] *See* 31 CFR 103.11(uu).

[5] *See* 65 FR 13683 (March 14, 2000). Banks, thrift institutions, and credit unions have been subject to the suspicious transaction reporting requirement since April 1, 1996, pursuant to regulations issued concurrently by FinCEN and the federal bank supervisors (the Board of Governors of the Federal Reserve System (''Federal Reserve''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA''). *See* 31 CFR 103.18 (FinCEN); 12 CFR 208.62 (Federal Reserve Board); 12 CFR 21.11 (OCC); 12 CFR 353.3 (FDIC); 12 CFR 563.180 (OTS); and 12 CFR 748.1 (NCUA). On July 1, 2002, FinCEN published a final rule, found at 31 CFR 103.19, requiring broker-dealers to file reports of suspicious transactions beginning after December 30, 2002. *See* 67 FR 44048. On September 26, 2002, FinCEN published a final rule, found at 31 CFR 103.21, requiring casinos and card clubs to file reports of suspicious transactions. *See* 67 FR 60722.

activities appropriate for the particular customer or type of customer as to have no reasonable explanation.

Although the rule does not require the filing of multiple reports of suspicious activity by both a money services businesses and its agent with respect to the same reportable transaction, the obligation to identify and report suspicious transactions rests with each money services business involved in a particular transaction.

In accordance with paragraph 103.20(b) of the MSB SAR rule, money services businesses must report a suspicious transaction within 30 days after the money services business becomes aware of the suspicious transaction, by completing a Suspicious Activity Report-MSB (''SAR–MSB''). FinCEN published for comment on July 25, 2002, a draft SAR–MSB, which is now final and available for use.[6] FinCEN has made special provision for situations requiring immediate attention (*e.g.*, where delay in reporting might hinder law enforcement's ability to fully investigate the activity), in which case money services businesses are immediately to notify, by telephone, the appropriate law enforcement authority in addition to filing a SAR–MSB. Reports filed under the terms of the MSB SAR rule are lodged in a central database. Information contained in the database is made available electronically to federal and state law enforcement and regulatory agencies, to enhance their ability to fight financial crime and terrorism.

Paragraph 103.20(c) of the MSB SAR rule requires money services businesses to maintain copies of each filed SAR–MSB for five years. In addition, money services businesses must collect and maintain for five years supporting documentation relating to each SAR–MSB and make such documentation available to law enforcement and regulatory agencies upon request.

Paragraph 103.20(d) of the MSB SAR rule incorporates the terms of 31 U.S.C. 5318(g)(2) and (g)(3), and specifically prohibits persons filing reports in compliance with the MSB SAR rule (or voluntary reports of suspicious transactions) from disclosing, except to appropriate law enforcement and regulatory agencies, that a report has been prepared or filed. The paragraph also restates the BSA's broad protection from liability for making reports of suspicious transactions (whether such reports are required by the MSB SAR rule or made voluntarily), and for declining to disclose the fact of such reporting. The regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection; however, because FinCEN recognizes the importance of these statutory provisions in the overall effort to encourage meaningful reports of suspicious transactions and to protect the legitimate privacy expectations of those who may be named in such reports, they are repeated in the rule to remind compliance officers and others of their existence.

Paragraph 103.20(e) of the MSB SAR rule provides that compliance with the MSB SAR rule will be audited by the Department of the Treasury through FinCEN or its delegee. Failure to comply with the rule may constitute a violation of the BSA regulations, which may subject non-complying money services businesses to enforcement action under the BSA.

As originally promulgated, the MSB SAR rule only applied to certain categories of money services businesses including issuers, sellers, and redeemers (for monetary value) of traveler's checks and money orders, money transmitters, and the United States Postal Service.[7] The original MSB SAR rule did not apply to either check cashers or to currency dealers/exchangers. This rulemaking is based on FinCEN's determination that it is now appropriate to extend to currency dealers and exchangers the requirement to report suspicious transactions. FinCEN has determined that such reports will have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings, and in the conduct of intelligence and counter-intelligence activities, including analysis, to protect against international terrorism.

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

The Congressional authorization of reporting of suspicious transactions recognizes two basic points that are central to Treasury's counter-money laundering and counter-financial crime programs. First, to realize full use of their ill-gotten gains, money launderers at some point must turn to financial institutions, 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 otherwise cannot be explained as constituting a legitimate use of the financial institution's products and services.

The importance of extending suspicious transaction reporting to all relevant financial institutions, including non-bank financial institutions, derives from 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, has 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 in their attempts to launder funds. Indeed, many non-bank financial institutions have come to recognize the increased pressure that money launderers have placed 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 (''FATF'') is that:

> If 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),[8] Annex 1

[6] *See* 67 FR 48704 (July 25, 2002). The SAR[1] MSB and advice on how to complete it can be viewed on FinCEN's Web site (*http://www.fincen.gov*) under the categories of ''What's New'' and ''Regulatory.''

[7] The rule required money services businesses described in 31 CFR 103.11(uu)(3) (the money services business category that includes issuers of traveler's checks, money orders, or stored value), 103.11(uu)(4) (sellers or redeemers of traveler's checks, money orders, or stored value), 103.11(uu)(5) (money transmitters), and 103.11(uu)(6) (the United States Postal Service) to file reports of suspicious activity. Given the infancy of the use of stored value products in the United States at the time of issuance of the final rule, issuers, sellers, and redeemers of stored value were explicitly carved out of the final MSB SAR rule. *See* 31 CFR 103.20(a)(5).

[8] FATF is an inter-governmental body whose purpose is 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.

(Recommendation 15). The recommendation applies equally to banks and non-banks.[9]

Extending counter-money laundering controls to ''non-traditional'' financial institutions, not simply to banks, is necessary both to ensure fair competition in the marketplace and because 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). For example, the international consensus is that currency dealers and exchangers 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, bureaux de change.[10] On December 4, 2001, the European Parliament and the Council of the European Union issued Directive 2001/97/EC amending *Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering* for the purpose of, among other things, reinforcing that anti-money laundering provisions should apply to currency exchange offices.

## II. Notice of Proposed Rulemaking

The final rule contained in this document is based on the notice of proposed rulemaking published October 17, 2002 (the ''Notice'') (67 FR 64075). The Notice proposed the following amendments to the MSB SAR rule found at 31 CFR 103.20: (1) Adding currency dealers and exchangers to the list of money services businesses required to report suspicious transactions to the Department of the Treasury under 31 CFR 103.20, (2) adding a fourth reporting category to the suspicious transaction reporting rule applicable to money services businesses, and (3) adding to the rule the telephone number for FinCEN's Financial Institutions Hotline (1–866–556–3974).

The comment period for the Notice ended on December 16, 2002. FinCEN received one comment letter, submitted by a trade association of community banks. The commenter discussed the importance of ensuring adequate scrutiny of MSBs for compliance with the requirement to report suspicious activity, and advised that FinCEN should monitor for evidence of money laundering activity through check cashers in order to determine whether to extend the suspicious transaction reporting requirement to such entities. FinCEN is committed to ensuring fairness in examining for, and enforcing, compliance with BSA regulations, and will continue to review whether it is appropriate to extend the suspicious activity reporting requirement to other categories of money services businesses not currently subject to the rule.

## III. Section-by-Section Analysis

In light of the fact that FinCEN did not receive any comments directly dealing with the language contained in the Notice, the format and terms of the final rule are consistent with the format and terms of the rule proposed in the Notice.

### *A. 103.20(a)—General*

Paragraph 103.20(a)(1) generally sets forth the requirement that certain money services businesses, including currency dealers and exchangers,[11] issuers, sellers, and redeemers of traveler's checks and money orders, and money transmitters, report suspicious transactions to the Department of the Treasury. It should be noted that a money services business is subject to suspicious transaction reporting only with respect to transactions that involve or relate to the business activities described in 103.11(uu)(1), (3), (4), (5), or (6). Thus, for example, a currency dealer or exchanger (a money services business described in 103.11(uu)(1)) that is also a check casher (a money services business described in 103.11(uu)(2)) would not be required to report under the MSB SAR rule with respect to its check cashing activities in general, although it would be required to report check cashing activity that was part of a series of transactions that led to, for example, a suspicious currency exchange.

### *B. 103.20(a)(2)—Reportable Transactions*

This document amends the MSB SAR rule by adding a fourth reporting category, described at 31 CFR 103.20(a)(2)(iv), for transactions involving use of the money services business to facilitate criminal activity. The addition of a fourth category of reportable transactions to the rule is intended to ensure that transactions involving legally-derived funds that the money services business suspects are being used for a criminal purpose, such as terrorist financing, are reported under the rule.[12] The addition of this reporting category is not intended to effect a substantive change in the rule. Rather, the fourth category has been added to make explicit that transactions being carried out for the purpose of conducting illegal activities, whether or not funded from illegal activities, must be reported under the rule.

### *C. 103.20(b)(3)—Filing Instructions*

This document amends paragraph 103.20(b)(3) to include FinCEN's Financial Institution Hotline (1–866–556–3974) for use by financial institutions wishing voluntarily to report to law enforcement suspicious transactions that may relate to terrorist activity. Money services businesses reporting suspicious activity by calling the Financial Institutions Hotline must still file a timely SAR–MSB to the extent required by 31 CFR 103.20.

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[9] This recommendation revises the original recommendation, issued in 1990, that required institutions to be either ''*permitted or* required'' to make such reports. (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.

[10] *See Guidance Notes for the Special Recommendations on Terrorist Financing and the Self-Assessment Questionnaire,* Special Recommendation Four, paragraph 19 (March 27, 2002). FATF defines ''bureaux de change'' as ''institutions which carry out retail foreign exchange operations.'' *See also Financial Action Task Force Annual Report, supra,* Annex 1 (Interpretive Note to Recommendations 8 and 9 (Bureaux de Change)).

[11] The terms currency ''dealer'' and ''exchanger'' in 31 CFR 103.11(uu)(1) were intended to be interchangeable to ensure that the regulation captured the same type of activity whether denominated as exchanging or dealing—the physical exchange of currency for retail customers.

[12] The fourth reporting category has been added to the suspicious activity reporting rules promulgated since the passage of the USA PATRIOT ACT to make this point clear. *See* 31 CFR 103.19 and 103.21.

*D. 103.19—Reports by Brokers or Dealers in Securities of Suspicious Transactions*

Section 103.19 instructs broker and dealers in securities to report suspicious transactions using a ''Suspicious Activity Report—Brokers or Dealers in Securities'' (SAR–BD) form. Because the name of the form has been changed to ''Suspicious Activity Report by the Securities and Futures Industries'' (SAR–SF), section 103.19 is being amended to reflect the new name of the form.

**IV. Regulatory Flexibility Act**

FinCEN certifies that this final regulation will not have a significant economic impact on a substantial number of small entities. The average currency exchange is approximately $300, an amount which is substantially below the $2,000 threshold that triggers reporting under the amendments to 31 CFR 103.20. Thus, FinCEN believes the rule will not have a significant economic burden on small entities.

**V. Executive Order 12866**

The Department of the Treasury has determined that this final rule is not a significant regulatory action under Executive Order 12866.

**VI. Paperwork Reduction Act**

The collection of information contained in this final regulation has been approved by the Office of Management and Budget (''OMB'') in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1506–0015. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is in 31 CFR 103.20(b)(3) and (c). This information is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.20. This information will be used by law enforcement agencies in the enforcement of criminal and regulatory laws. The collection of information is mandatory. The likely recordkeepers are businesses.

The estimated average recordkeeping burden associated with the collection of information in this final rule is 20 minutes per recordkeeper. The burden estimate relates to the recordkeeping requirement contained in the final rule. The reporting burden of 31 CFR 103.20 will be reflected in the burden of the SAR–MSB form. FinCEN anticipates that the final rule will result in an annual filing of a total of 3,100 SAR–MSB forms. This result is an estimate, based on a projection of the size and volume of the industry.

Comments concerning the accuracy of this burden estimate should be directed to the Financial Crimes Enforcement Network, Department of the Treasury, Post Office Box 39, Vienna, VA 22183, and to the Office of Management and Budget, Attn: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

**List of Subjects in 31 CFR Part 103**

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as follows:

## PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN 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–-314, 5316–5332; title III, secs. 314, 352, Pub. L. 107–56, 115 Stat. 307.

2. In Subpart B, amend §§ 103.19(b)(1), (b)(2), (b)(3), (c)(1), (d), and (e) by removing the word ''SAR–BD'' each place it occurs and adding in its place the word ''SAR–S–F.''

3. In Subpart B, amend § 103.20 as follows:

a. Revise the first sentence of paragraph (a)(1),

b. Add new paragraph (a)(2)(iv), and

c. Add a new sentence to the end of paragraph (b)(3).

The additions and revisions read as follows:

**§ 103.20 Reports by money services businesses of suspicious transactions.**

(a) *General.* (1) Every money services business, described in § 103.11(uu) (1), (3), (4), (5), or (6), shall file with the Treasury Department, 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. * * *

(2) * * *

(iv) Involves use of the money services business to facilitate criminal activity.

* * * * *

(b) * * *

(3) * * * Money services businesses 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–MSB if required by this section.

* * * * *

Dated: January 31, 2003.

**James F. Sloan,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 03–3112 Filed 2–7–03; 8:45 am]

BILLING CODE 4810–02–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 199

**RIN–0720–AA52**

## TRICARE Program; Double Coverage; Third-Party Recoveries

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements section 711 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, as amended by section 716(c)(2) of the National Defense Authorization Act for Fiscal Year 2000, which allows the Secretary of Defense to authorize certain TRICARE claims to be paid, even though other health insurance may be primary payer, with authority to collect from the other health insurance (third-party payer) the TRICARE costs incurred on behalf of the beneficiary.

**DATES:** This final rule is effective March 12, 2003.

**ADDRESSES:** TRICARE Management Activity (TMA), Office of General Counsel, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

**FOR FURTHER INFORMATION CONTACT:** Stephen Isaacson Medical Benefits and Reimbursement Systems, TMA, (303)–676–3572.

**SUPPLEMENTARY INFORMATION:**

**I. Summary of Final Rule Provisions**

This final rule changes the TRICARE ''double coverage'' provisions authorizing payment of claims when a third-party payer, other than a primary medical insurer, is involved rather than delaying TRICARE payments pending payment by the third-party payer. In addition, this final rule changes the TRICARE ''third-party recoveries'' provisions incorporating the authority to collect from third-party payers the TRICARE costs for health care services incurred on behalf of the patient/