



Financial Crimes Enforcement Network
U.S. Department of the Treasury

Washington, D.C. 20220

May 26, 2021

VIA ELECTRONIC MAIL

Randall Hultgren
President and CEO
Illinois Bankers Association
194 East Delaware Place, Suite 500
Chicago, IL 60611

Re: *Request for an administrative ruling from the Illinois Bankers Association, pursuant to 31 CFR Part 1010 Subpart G*

Dear Mr. Hultgren:

This letter responds to your request for an administrative ruling dated May 7, 2021 (the “Request”) to the Financial Crimes Enforcement Network (FinCEN). Specifically, the Request sought an administrative ruling on behalf of the members of the Illinois Bankers Association (the “Banks,” and individually, the “Bank”) regarding the requirement to file currency transaction reports (CTRs) on transactions between each Bank and a money services business (MSB). The Request also sought an exemption from CTR filing for any future transactions involving the MSB, and a back filing determination regarding reports that each Bank should have filed on these transactions in the past.

As described in the Request, each Bank entered into an agreement with a registered MSB for the purchase and sale of cash and coin. As part of the agreement, the MSB provides additional services to each Bank, including delivery to and pickup from locations designated by each Bank, and armored guard support. As part of the agreement, each Bank pays for currency purchased through wire drawdowns from an account designated by each Bank, and each Bank’s account is credited for currency sales through automated clearinghouse transactions.

The Request stated that, while the MSB has been filing CTRs on these transactions, the Banks have not. Given the flow of funds described above, the Request asked FinCEN for a determination on whether the Banks must file CTRs on these transactions, and, if so, how to identify the different parties to the transaction on the CTR.

Pursuant to 31 CFR § 1010.311, depository institutions such as the Banks are required to file a report of each deposit, withdrawal, exchange of currency or other payment or transfer by, through, or to such financial institution, which involves transactions in currency of aggregate amounts in excess of \$10,000. Exemptions from the requirement for banks to file CTRs are listed at 31 CFR § 1020.315. None of these exemptions appears to apply to the situation described in the Request.

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Pursuant to 31 CFR § 1010.315, a non-bank financial institution, such as an MSB, is not required to file a report otherwise required by 31 CFR § 1010.311 with respect to a transaction in currency between the institution and a commercial bank. Please note this exemption is not symmetric: while the MSB is exempted from reporting because the commercial bank files a CTR on the mutual transaction, the commercial bank is not exempted from the regulatory obligation to file a CTR if the MSB decides to forgo the exemption and file their own report on the mutual transaction.

Both the MSB's (i) sale of currency to each Bank, and (ii) purchase of currency from each Bank, require the Bank to file a CTR when the aggregated amount of transactions of either type exceeds \$10,000, regardless of any parallel CTR filing done by the MSB.

The Banks should use the following instructions for completing the CTR in the scenario described in the Request:

- Each Bank must identify itself as the filer of the CTR.
- Each Bank must identify the MSB as a "Person on whose behalf transaction was conducted," checking box 2c and "If Entity."
- Each Bank must mark box 24 of Section II ('Armored Car (FI Contract)'), to indicate that the movement of currency was done on behalf of the Bank.
- Finally, Part III of the form must identify as financial institution(s) where the transaction took place each of the locations that received or provided the currency according to the Bank's instructions.

Each Bank may, alternatively, contract with a third-party service provider to file CTRs on behalf of the Bank. The Banks should be aware, however, that the regulatory obligation to file CTRs remains with the respective Bank, and that such Bank is ultimately responsible for ensuring that the third-party service provider files complete and accurate forms with FinCEN.

Pursuant to 31 CFR § 1010.970, we have provided exceptive relief from the obligation to back file CTRs to those Banks that have requested relief from FinCEN. However, we remind the Banks that to the extent the MSB either did not file CTRs, or filed deficient CTRs, on behalf of each Bank, such Bank ultimately remains liable. We declined to issue exceptive relief for future transactions in this case, as FinCEN has previously issued guidance on the requirement for financial institutions, including depository institutions, to file CTRs in the scenario described in the Request.¹

FinCEN expects that the Banks will correct the deficiencies identified and comply with all requirements under the BSA and its implementing regulations. FinCEN will consider each Bank's history of compliance with the BSA in any matters that come to FinCEN's attention in

¹ See [FIN-2013-R001](#), "Treatment of Armored Car Service Transactions Conducted on Behalf of Financial Institution Customers or Third Parties for Currency Transaction Report Purposes," (July 12, 2013).

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Illinois Bankers Association

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the future. FinCEN considers BSA compliance by financial institutions to be a critical part of the government's efforts against the use of the U.S. financial system for money laundering, terrorist financing, and other financial crimes.

This ruling is provided in accordance with the procedures set forth at 31 CFR Part 1010 Subpart G. In arriving at the conclusions in this administrative ruling, we have relied upon the accuracy and completeness of the representations you made in your request. Nothing precludes FinCEN from arriving at a different conclusion or from taking other action should circumstances change or should any of the information provided in the request prove inaccurate or incomplete.

We reserve the right, after redacting your name and address, to publish this letter as guidance to financial institutions in accordance with our regulations.² You have 14 days from the date of this letter to identify any other information you believe should be redacted and the legal basis for redaction.

If you have any additional questions, please contact Office of Regulatory Policy, Regulatory Interpretation Section, by email at administrative.rulings@fincen.gov.

Sincerely,

James Martinelli
Acting Director
Office of Regulatory Policy
Policy Division

² 31 CFR §§ 1010.711-717.