year the State receives Section 410 funds based on this criterion; and

(3) all four components contained in paragraph (f)(1)(ii) of this section in the fourth or subsequent fiscal year the State receives Section 410 funds based on this criterion; and

(C) an updated plan that outlines proposed efforts to involve all four components contained in paragraph (f)(1)(ii) of this section, until the State's activities involve all four components.

(g) *Testing for BAC.*

(1) * * *

(i) * * *

(B) BAC testing data. The State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(ii) In FY 2001 and each subsequent fiscal year, a percentage of BAC testing among drivers involved in fatal motor vehicle crashes that is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(3) * * *

(i) * * *

(B) a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; or

* * * * *

(ii) * * *

(B) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(B), the State may submit instead a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State continues to be equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(4) Demonstrating compliance beginning in FY 2001. To demonstrate compliance for a grant based on this criterion in FY 2001 or any subsequent fiscal year, the State shall submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

3. Section 1313.6 is amended by revising paragraphs (a)(1), (b), and (c)(2) to read as follows:

§ 1313.6 Requirements for a performance basic grant.

(a)(1) the percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has decreased in each of the three most recent calendar years for which statistics for determining such percentages are available as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; and

* * * * *

(b) *Calculating percentages.* (1) The percentage of fatally injured drivers with a BAC of 0.10 percent or greater in each State is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(3) Any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in each of the three most recent calendar years, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may calculate for submission to NHTSA the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.

(c) * * *

(2) Alternatively, a State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may demonstrate compliance with this criterion by submitting its calculations developed under paragraph (b)(3) of this section and a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(2) and (b)(3) of this section.

Issued on: July 24, 2000.

Rosalyn G. Millman,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 00–18985 Filed 7–25–00; 10:41 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA23

Amendment to the Bank Secrecy Act Regulations—Exemptions From the Requirement to Report Transactions in Currency; Interim Rule

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: Rules previously issued under the Bank Secrecy Act established new procedures for exemption of transactions of retail and other businesses from the requirement that depository institutions report transactions in currency in excess of $10,000. The interim rule (the ''Interim Rule'') contained in this document modifies those procedures so that they will also apply to transactions involving money market deposit accounts used for business purposes. The Interim Rule also makes certain technical changes in the exemption procedures. Modification of the exemption procedures is another step in the Department of the Treasury's continuing program to increase the cost-effectiveness of the counter-money laundering policies of the Department of the Treasury.

DATES: *Effective Date:* July 31, 2000.

Comment Deadline: Comments must be received by September 26, 2000.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, VA 22182, *Attention:* Interim Rule—MMDA. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.treas.gov'' with the caption ''Attention: Interim Rule—MMDA.'' Comments may be inspected at the Department of the Treasury between 10 a.m. and 4 p.m., in the FinCEN reading room at the Franklin Court Building, 14th and L Streets, NW., Washington, DC. Persons wishing to inspect the comments submitted should request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: Peter Djinis, Executive Assistant Director (Regulatory Policy), FinCEN, (703) 905–3930; Christine E. Carnavos, Assistant Director (Office of Compliance and Regulatory Enforcement), FinCEN, (1–800) 949–2732; Stephen R. Kroll, Chief Counsel, Cynthia L. Clark, Deputy Chief Counsel, and Albert R. Zarate and Christine L. Schuetz, Attorney-Advisors, Office of Chief Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

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. 5311–5330, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing 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.

The reporting by financial institutions of transactions in currency in excess of $10,000 has long been a major component of the Department of the Treasury's implementation of the Bank Secrecy Act. The reporting requirement is imposed by 31 CFR 103.22, a rule issued under the broad authority granted to the Secretary of the Treasury by 31 U.S.C. 5313(a) to require reports of domestic coin and currency transactions.

The provisions of 31 U.S.C. 5313(d) through (g), added to the Bank Secrecy Act in 1994,[1] concern the exemption, from the currency transaction reporting requirements, of transactions by certain customers of depository institutions.[2] 31 U.S.C. 5313(d) (sometimes called the ''mandatory exemption'' provision) states that the Secretary of the Treasury shall exempt a depository institution from the requirement to report currency transactions with respect to transactions between the depository institution and four specified categories of customers, while 31 U.S.C. 5313(e) (sometimes called the ''discretionary exemption'' provision) authorizes the Secretary of the Treasury to exempt a depository institution from the requirement to report transactions in currency between it and a qualified business customer.[3]

A ''qualified business customer,'' for purposes of the discretionary exemption provision, is a business that

(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

31 U.S.C. 5313(e)(2). The Secretary of the Treasury is required to establish, by regulation, the criteria for granting and maintaining an exemption for qualified business customers, *see* 31 U.S.C. 5313(e)(3), as well as guidelines for depository institutions to follow in selecting customers for exemption. *See* 31 U.S.C. 5313(e)(4)(A).

B. Regulatory Provisions

The reformed exemption procedures called for by 31 U.S.C. 5313(d)–(g) are now found in the Bank Secrecy Act regulations at 31 CFR 103.22(d). The procedures are the result of a four-part rulemaking[4] and are designed to permit streamlined exemption from the reporting requirements of transactions by most depository institution customers that have recurring needs for large amounts of currency to support their commercial enterprises in the United States. (Certain non-publicly-traded companies are ineligible for exemption under the procedures, as the statute contemplates.[5] *See* 31 CFR 103.22(d)(6)(viii).)

Classes of Exempt Persons.

The reformed exemption procedures apply to depository institution customers who fall within one of the classes of exempt persons described in 31 CFR 103.22(d)(2)(i)–(vii). The classes of exempt persons are:

(i) Other banks operating in the United States;

(ii) Government departments and agencies;

(iii) Certain entities that exercise governmental authority;

(iv) Entities whose equity interests are listed on one of the major national stock exchanges;

(v) Certain subsidiaries of entities whose equity interests are listed on one of the major national stock exchanges;

(vi) ''Non-listed businesses,'' as defined and described more fully below; and

(vii) ''Payroll customers,'' as defined and described more fully below.[6]

Non-Listed Businesses and Payroll Customers

Under the exemption rules, a ''non-listed business'' is any other commercial enterprise (*i.e.*, an enterprise that is neither a bank,[7] a government agency, a publicly-traded company, nor a subsidiary of a publicly-traded company

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[1] *See* section 402 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325 (September 23, 1994).

[2] Section 402(b) of the Money Laundering Suppression Act states simply that in administering the new statutory exemption provisions: the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31 * * * by at least 30 percent of the number filed during the year preceding [September 23, 1994,] the date of enactment of [the Money Laundering Suppression Act]. The enactment of 31 U.S.C. 5313(d) through (g) reflects a Congressional intention to ''reform * * * the procedures for exempting transactions between depository institutions and their customers.'' *See* H.R. Rep. 103–652, 103d Cong., 2d Sess. 186 (August 2, 1994).

[3] For additional information about the terms of 31 U.S.C. 5313(e)–(g), see 63 FR 50147, 50148 (September 21, 1998).

[4] An interim rule (with a request for comments) implementing the mandatory exemption provision (in what was called ''Phase I'' of exemption reform, aimed primarily at larger national and regional customers of depository institutions) was published on April 24, 1996. 61 FR 18204. A final rule based on the Phase I interim rule was published on September 8, 1997, 62 FR 47141, as 31 CFR 103.22(h), and a proposed rule implementing the discretionary exemption provision (''Phase II'' of exemption reform, aimed at non-publicly-traded retail and other businesses) was published on the same day. 62 FR 47156. The comment period for the proposed rule was extended on November 28, 1997, 62 FR 63298, and a final rule based on the Phase II proposal was published on September 21, 1998. 63 FR 50147. The final rule containing the Phase II provisions completely restated the language of 31 CFR 103.22; as part of that restatement, the Phase I provisions (previously found in 31 CFR 103.22(h)) and the Phase II provisions were combined in new 31 CFR 103.22(d).

[5] 31 U.S.C. 5313(e)(4)(B) provides that the required regulatory exemption guidelines may include a description of the type of businesses for which no exemption will be granted under the discretionary exemption provision. The ineligible classes of customer are listed at note 8, *see infra.*

[6] Generally, a depository institution seeking to exempt transactions by an eligible customer from the currency transaction reporting requirement need only make a one-time designation identifying the exempting depository institution, the exempt customer, and the category of exempt person into which the customer falls. The designation is made on Treasury Form TD F 90–22.53. As explained below, the Interim Rule changes the language of 31 CFR 103.22(d)(3)(i) and (d)(5)(ii) to specify the use of Form TD F 90–22.53.

[7] As used in 31 CFR 103.22, as elsewhere in the Bank Secrecy Act regulations, the term ''bank'' includes all of the classes of depository institution listed at 31 CFR 103.11(c).

and that is not ineligible for exemption [8]) that

(A) Has maintained a transaction account at the bank for at least 12 months;

(B) Frequently engages in transactions in currency with the bank in excess of $10,000; and

(C) Is incorporated or organized under the laws of the United States or a State, or is registered as and eligible to do business within the United States or a State.

31 CFR 103.22(d)(2)(vi). Such an enterprise is an exempt person only ''[t]o the extent of its domestic operations.'' *Id.* The addition of non-listed businesses as a category of exempt person was intended to make eligible for the reformed exemption procedures transactions of all established depository institution customers (other than ineligible companies) not included within the scope of the mandatory exemption provision.

A ''payroll customer,'' under the exemption rules, is any other person (*i.e.*, a person not otherwise covered under the exempt person definitions) that

(A) Has maintained a transaction account at the bank for at least 12 months;

(B) Operates a firm that regularly withdraws more than $10,000 in order to pay its United States employees in currency; and

(C) Is incorporated or organized under the laws of the United States or a State, or is registered as and eligible to do business within the United States or a State.

31 CFR 103.22(d)(2)(vii). A payroll customer is an exempt person ''[w]ith respect solely to withdrawals for payroll purposes.'' *Id.*

The ''Transaction Account'' Limitation

As indicated above, a person must maintain a ''transaction account'' with a depository institution in order to be treated as a ''non-listed business'' or ''payroll customer'' for purposes of the reformed exemption procedures. In addition, non-listed businesses and payroll customers may be treated as exempt persons ''only to the extent of [their] eligible transaction accounts'' under the present language of the reformed procedures. *See* 31 CFR 103.22(d)(6)(ix).

A ''transaction account'' for this purpose is an account described in section 19(b)(1)(C) of the Federal Reserve Act.[9] Section 19(b)(1)(C) of the Federal Reserve Act, codified at 12 U.S.C. 461(b)(1)(C), in turn, states that a transaction account is

> a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

Money Market Deposit Accounts

Given the operative definition of a transaction account, the exemption procedures published on September 21, 1998, do not extend to transactions by non-listed businesses or payroll customers that involve so-called money market deposit accounts.[10] *See* 12 CFR 204.2(d)(2) (in implementing section 19(b)(1)(C) of the Federal Reserve Act, defining a money market deposit account as a ''savings deposit'') and 12 CFR 204.2(e) (defining a transaction account to exclude ''savings deposits or accounts described in paragraph (d)(2) of this section even though such accounts permit third party transfers''). FinCEN noted this limitation when it proposed the new exemption procedures for non-listed businesses and payroll customers, *see* 62 FR 47156, 47162 (September 8, 1997), and again when it issued the final rule containing those procedures. *See* 63 FR 50147, 50154 (September 21, 1998). At the same time, FinCEN indicated that it would entertain requests for relief if the transaction account limitation proved to be unduly difficult to apply. *Id.*

II. The Interim Rule

Modification of the Transaction Account Limitation

A number of depository institutions have contacted FinCEN to request reconsideration of the decision to limit the reformed exemption procedures for non-listed businesses and payroll customers to transactions in currency involving transaction accounts. The transaction account limitation has been asserted to limit unnecessarily the ability of banks to make use of the procedures within their intended scope, for two reasons.

The first reason is that smaller businesses often place their receipts in money market deposit accounts to obtain some return on their funds until those funds are necessary for use in their businesses. Use of money market deposit accounts for this purpose reflects the fact that businesses are not generally permitted to hold interest-bearing checking accounts.[11] To satisfy their check-writing needs, businesses simply transfer funds from their money market deposit accounts to their transaction (that is, their checking) accounts as necessary.

The second reason flows from the first. Several banks have indicated that their computerized systems for tracking the currency transactions of their business customers do not distinguish between transaction accounts and money market accounts. Thus, an exemption system that does not extend to money market deposit accounts cannot be used at all for such customers (even for transaction accounts) without either an expensive system change or a time-intensive manual research process. The banks state that, faced with these choices, they would opt simply to file currency transaction reports and not use the exemption procedures at all for the customers in question.

The transaction account limitation was intended to help ensure that streamlined exemption procedures were available only for routine uses of currency by legitimate ongoing commercial enterprises. Deposits and withdrawals of currency from money market accounts by enterprises in the circumstances described above are within the classes of transactions for which the new exemption procedures were designed. For that reason, the

[8] Non-listed businesses ineligible for exemption are businesses engaged primarily in one or more of the following activities: serving as financial institutions or agents of financial institutions of any type; purchase or sale to customers of motor vehicles of any kind, vessels, aircraft, farm equipment or mobile homes; the practice of law, accountancy, or medicine; auctioning of goods; chartering or operation of ships, buses, or aircraft; gaming of any kind (other than licensed parimutuel betting at race tracks); investment advisory services or investment banking services; real estate brokerage; pawn brokerage; title insurance and real estate closing; trade union activities; and any other activities that may be specified by FinCEN. 31 CFR 103.22(d)(6)(viii).

[9] *See* 31 U.S.C. 5313(e)(2)(A) (defining a qualified business customer (whose transactions the Secretary of the Treasury is authorized to exempt from currency transaction reporting by 31 U.S.C. 5313(e)(1)), as a business which, among other things, ''maintains a transaction account (as defined in section 19(b)(1)(c) of the Federal Reserve Act) at the depository institution.'').

[10] Money market deposit accounts were established by the Garn-St. Germain Act of 1982, as interest-bearing accounts comparable to money market mutual funds upon which a limited number of checks may be drawn or other withdrawals made.

[11] Prior to the passage of the Monetary Control Act of 1980, all interest payments on demand deposits were prohibited. The Monetary Control Act established, among other things, negotiable order of withdrawal (''NOW'') accounts, to allow customers to earn interest on balances against which checks may be drawn. However, businesses are not permitted to hold NOW accounts.

Interim Rule modifies the new exemption procedures so that they will apply to the transactions of non-listed businesses and withdrawals for payroll purposes by payroll customers that involve a money market deposit account, within the meaning of section 19(b)(1)(C) of the Federal Reserve Act and that section's implementing regulations. *See* 12 CFR 204.2(d)(2).

The change made by the Interim Rule, however, as noted in more detail below, does not alter the definition of an exempt person itself. Thus, for example, a non-listed business may only be treated as an exempt person to the extent that it has maintained a transaction account at the depository institution for at least twelve months. *See* 31 CFR 103.22(d)(2)(vi). Moreover, under the new exemption procedures applicable to non-listed businesses and payroll customers, as modified by the Interim Rule, money market deposit accounts maintained other than as part of a commercial enterprise are not eligible for exemption. *See* 31 CFR 103.22(d)(2)(vi).

FinCEN is requesting comments on the expansion of the exemption procedures made by the Interim Rule. Commenters may wish to address any of the issues discussed above (for example, the fact that the changes made by the Interim Rule do not permit treatment as an exempt person of a customer whose only relationship with a bank is maintenance of a money market deposit account), or other matters related to the subject of the Interim Rule (for example, whether other savings accounts should be treated in the same manner as money market deposit accounts). The comments should include as much statistical or other information as possible about the terms and business or commercial uses of particular types of accounts that are discussed in any comments. Comments should also explain the reasons that any additional modifications to the exemption procedures sought by the comments are appropriate to accomplish the goals of the procedures and are not subject to the risk of extending the exemption procedures beyond their intended scope.

The provisions of the Interim Rule concerning money market deposit accounts become effective on July 31, 2000. Although FinCEN believes that the definition of a ''transaction account'' has been made clear heretofore, for reasons of administrative convenience, FinCEN will not generally require backfiling regarding any exemption granted based on the mistaken assumption that the term ''transaction account'' included money market deposit accounts.

Conforming Changes Based Upon Modification of Transaction Account Limitation

The Interim Rule makes several conforming changes to the exemption procedures based on the amendment to the transaction account limitation described above. First, the Interim Rule extends the exemption procedures to all exemptible accounts of a non-listed business or payroll customer, rather than just those customers' transaction accounts. Correspondingly, the term ''exemptible accounts'' is defined, for purposes of non-listed businesses and payroll customers, to include both transaction accounts and money market deposit accounts. (These changes are reflected in the new language of 31 CFR 103.22(d)(6)(ix).) Lastly, the Interim Rule substitutes the term ''exemptible account'' for the term ''transaction account'' for purposes of the terms of the exemption procedures concerning aggregation. Thus, when determining the qualification of a customer as a non-listed business or payroll customer, a bank may treat all exemptible accounts (rather than just transaction accounts) of the customer as a single account.

Reference to Treasury Form TD F 90–22.53

Since the reformed exemption procedures were published on September 21, 1998, 63 FR 50149, a new form, Treasury Form TD F 90–22.53, has been designated by FinCEN for use by banks when filing both the initial and biennial renewal of designation of exempt persons. Thus, the Interim Rule amends the exemption procedures to require the use of Treasury Form TD F 90–22.53 in that regard.

III. Specific Provisions

A. 103.22(d)(2)(vi)—Non-listed Businesses

The Interim Rule amends the language of 31 CFR 103.22(d)(2)(vi) to state that a non-listed business may only be treated as an exempt person to the extent of transactions conducted through its exemptible accounts. FinCEN believes that this change will help clarify the limitation on exemption for non-listed businesses.

The Interim Rule further modifies the language of 31 CFR 103.22(d)(2)(vi) to refer to the definition of a transaction account that is set forth at 31 CFR 103.22(d)(6)(ix). FinCEN believes that a cross-reference here would be helpful because of the change in the heading to paragraph (d)(6)(ix) that is described below.

B. 103.22(d)(2)(vii)—Payroll Customers

The Interim Rule amends the language of 31 CFR 103.22(d)(2)(vii) regarding withdrawals for payroll purposes to refer to withdrawals from exemptible accounts. The Interim Rule further modifies the language of 31 CFR 103.22(d)(2)(vii) to refer to the definition of a transaction account that is set forth at 31 CFR 103.22(d)(6)(ix). FinCEN believes that a cross-reference here would be helpful because of the change in the heading to paragraph (d)(6)(ix) that is described below.

C. 103.22(d)(3)(i)—Initial Designation of Exempt Persons

The Interim Rule amends the language of 31 CFR 103.22(d)(3)(i) to refer to the use of Treasury Form TD F 90–22.53 when filing the initial designation of exempt person. [12]

D. 103.22(d)(5)(ii)—Renewal of Designations for Non-listed Businesses and Payroll Customers

The Interim Rule amends the language of 31 CFR 103.22(d)(5)(ii) to refer to the use of Treasury Form TD F 90–22.53 when filing the biennial renewal of designation of exempt persons regarding customers who are non-listed businesses or payroll customers.

E. 103.22(d)(6)(v)—Aggregated Accounts

The Interim Rule modifies the language of 31 CFR 103.22(d)(6)(v) to state that a bank may aggregate all exemptible accounts (rather than simply transaction accounts) of a non-listed business or payroll customer to apply the terms of the exemption procedures to such a customer. Thus, for example, the determination whether a non-listed business ''frequently engages in transactions in currency with the bank in excess of $10,000'' (see 31 CFR 103.22(d)(2)(vi)(B)) is to be made by aggregating transactions in transaction and money market deposit accounts.

F. 103.22(d)(6)(ix)—Exemptible Accounts

The Interim Rule modifies the language of 31 CFR 103.22(d)(6)(ix) to state that the exemptible accounts of a non-listed business or payroll customer include both transaction accounts and money market deposit accounts. (The heading for paragraph (d)(6)(ix) correspondingly has been changed from ''Transaction account'' to ''Exemptible

[12] A bank is not required to file a form with respect to the transfer of currency to or from any of the twelve Federal Reserve Banks.

accounts of a non-listed business or payroll customer''.) The term ''money market deposit account,'' for purposes of paragraph (d), is defined by reference to the definition of that term contained in 12 CFR 204.2(d)(2). Currently, section 204.2(d)(2) defines a money market deposit account as any interest-bearing account on which the account holder is authorized to make no more than six transfers per calendar month or similar period for the purpose of making payments or transfers to another account of the depositor at the same institution or to a third person by means of a preauthorized, automatic, or telephonic order or instruction; of those six authorized transfers, no more than three may be made by check or similar order to a third person. The term ''transaction account,'' for purposes of paragraph (d), continues to be defined by reference to section 19(b)(1)(C) of the Federal Reserve Act, 12 U.S.C. 461(b)(1)(C), and that statute's implementing regulations, found at 12 CFR 204 *et seq.*

IV. Regulatory Matters

A. Executive Order 12866

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

B. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance the Interim Rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

C. Administrative Procedure Act

The Interim Rule grants significant relief from existing regulatory requirements. Thus, the Interim Rule may be made effective without the need to abide by the notice and comment procedures contained in 5 U.S.C. 553(b), and, further, may be made effective before 30 days have passed after its publication date. *See* 5 U.S.C. 553(d).

D. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 604) are not applicable to the Interim Rule contained in this document because FinCEN was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

E. Paperwork Reduction Act

The Interim Rule is being issued without prior notice and public procedure pursuant to 5 U.S.C. 553. By expanding the applicable exemptions from an information collection that has been reviewed and approved by the Office of Management and Budget (OMB) under control number 1506–0004, relating to the Currency Transaction Report, the Interim Rule contained in this document significantly reduces the existing burden of information collection under 31 CFR 103.22. Thus, the Paperwork Reduction Act does not require FinCEN to follow any particular procedures in connection with the promulgation of the Interim Rule.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities, Taxes.

Amendment

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. 5311–5330.

2. Section 103.22 is amended by—

a. Revising the introductory text of paragraph (d)(2)(vi),

b. Revising paragraph (d)(2)(vi)(A),

c. Revising the introductory text of paragraph (d)(2)(vii),

d. Revising paragraph (d)(2)(vii)(A),

e. Removing the second sentence of paragraph (d)(3)(i) and adding two new sentences in its place,

f. Revising the first sentence of paragraph (d)(5)(ii),

g. Revising paragraph (d)(6)(v), and

h. Revising paragraph (d)(6)(ix).

The revisions and additions read as follows:

§ 103.22 Reports of transactions in currency.

* * * * *

(d) *Transactions of exempt persons* * * *

(2) *Exempt person.* * * *

(vi) To the extent of its domestic operations and only with respect to transactions conducted through its exemptible accounts, any other commercial enterprise (for purposes of this paragraph (d), a ''non-listed business''), other than an enterprise specified in paragraph (d)(6)(viii) of this section, that:

(A) Has maintained a transaction account, as defined in paragraph (d)(6)(ix) of this section, at the bank for at least 12 months;

* * * * *

(vii) With respect solely to withdrawals for payroll purposes from existing exemptible accounts, any other person (for purposes of this paragraph (d), a ''payroll customer'') that:

(A) Has maintained a transaction account, as defined in paragraph (d)(6)(ix) of this section, at the bank for at least 12 months;

* * * * *

(3) *Initial designation of exempt persons—(i) General.* * * * Except as provided in paragraph (d)(3)(ii) of this section, designation by a bank of an exempt person shall be made by a single filing of Treasury Form TD F 90–22.53. (A bank is not required to file a Treasury Form TD F 90–22.53 with respect to the transfer of currency to or from any of the twelve Federal Reserve Banks.) * * *

* * * * *

(5) *Biennial filing with respect to certain exempt persons* * * *

(ii) *Non-listed businesses and payroll customers.* The designation of a non-listed business or a payroll customer as an exempt person must be renewed biennially, beginning on March 15 of the second calendar year following the year in which the first designation of such customer as an exempt person is made, and every other March 15 thereafter, on Treasury Form TD F 90–22.53. * * *

(6) *Operating rules* * * *

(v) *Aggregated accounts.* In determining the qualification of a customer as a non-listed business or a payroll customer, a bank may treat all exemptible accounts of the customer as a single account. If a bank elects to treat

all exemptible accounts of a customer as a single account, the bank must continue to treat such accounts consistently as a single account for purposes of determining the qualification of the customer as a non-listed business or payroll customer.

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(ix) *Exemptible accounts of a non-listed business or payroll customer.* The exemptible accounts of a non-listed business or payroll customer include transaction accounts and money market deposit accounts. However, money market deposit accounts maintained other than in connection with a commercial enterprise are not exemptible accounts. A transaction account, for purposes of this paragraph (d), is any account described in section 19(b)(1)(C) of the Federal Reserve Act, 12 U.S.C. 461(b)(1)(C), and its implementing regulations (12 CFR part 204). A money market deposit account, for purposes of this paragraph (d), is any interest-bearing account that is described as a money market deposit account in 12 CFR 204.2(d)(2).

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Dated: July 14, 2000.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 00–18770 Filed 7–27–00; 8:45 am]

BILLING CODE 4820–03–P

POSTAL SERVICE

39 CFR Part 111

Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth changes to the Domestic Mail Manual (DMM) for the preparation of nonautomation nonletter-size carrier route Periodicals prepared in sacks and the preparation of Periodicals packages and bundles on pallets. For Periodicals carrier route mail prepared in sacks, the changes require carrier route sacks to contain a minimum of 24 pieces and make the use of 5-digit scheme carrier routes sacks, using DMM labeling list L001, a required sortation level. All other sack sortation criteria remain unchanged. For Periodicals prepared as packages and bundles on pallets, the changes require preparation of 5-digit scheme pallets, using DMM labeling list L001.

EFFECTIVE DATE: A future date that coincides with the implementation of rates resulting from the R2000–1 rate case. A document announcing the effective date will be published in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Joel Walker, 202–268–3340; jwalke13@email.usps.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31118–31120) a proposed rule to change preparation requirements for nonautomation nonletter-size carrier route Periodicals prepared in sacks and for Periodicals packages and bundles prepared on pallets.

The Postal Service proposed that all direct carrier route sacks must contain a minimum of 24 pieces and proposed to require the use of 5-digit/scheme carrier routes sortation using DMM L001 for nonautomation nonletter-size Periodicals prepared in sacks. In addition, the Postal Service proposed to require preparation of both 5-digit scheme and 5-digit pallets when there are 500 pounds of Periodicals packages and bundles for a scheme under DMM L001, or for a single 5-digit ZIP Code not listed in DMM L001.

The Postal Service received a total of five comments on the proposed rule. All comments supported the rule, with two comments highly in favor. Therefore, the Postal Service will adopt, without revision, the proposed changes effective at a future date that coincides with implementation of rates resulting from the R2000–1 rate case.

On May 18, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31506) a proposed rule to require that packages of basic carrier route Periodicals be sequenced in line-of-travel or walk sequence order. As described in detail in an accompanying final rule, the Postal Service will adopt those proposed changes on the same date as the preparation changes described in this final rule.

Because some of these rules overlap (specifically, E230.2.2a), this final rule is written to include the standards that are included in the other final rule.

Summary of Comments

The Postal Service received five comments on the proposed rule. The respondents included individual publishers, publisher associations, and mailing agents. Although in favor of the proposed rule, two respondents voiced opposition to any future proposal to change the standards for low-volume packages and sacks (fewer than six pieces) or the current minimum volume sack standards for Periodicals. In addition, the two respondents voiced a concern that not all publishers will be able to incorporate L001 into their software by the proposed October 15, 2000, effective date. Therefore, the Postal Service has revised the effective date of the proposed rule. Mailers have the option to use these preparation standards now and will be required to use these standards with the date that coincides with implementation of rates resulting from the R2000–1 rate case. Mailers not currently using these standards are encouraged to begin using them as soon as possible.

One respondent offered three comments that are outside the scope of the proposed rule. The first comment expressed continued support for an option for mailers to label sacks to a carrier route rather than to ''mixed carrier routes'' when the sack contains mail only to a single carrier route, but less than 24 pieces. The next comment expressed support for the design and implementation of a new container (mini-pallet), and the last suggested that these rule changes be expanded to Standard Mail (A) flat-size mail.

For the reasons discussed above, the Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the *Domestic Mail Manual* (DMM) as follows:

E ELIGIBILITY

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E200 Periodicals

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E230 Nonautomation Rates

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2.0 CARRIER ROUTE RATES

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[Amend 2.2 by revising the heading and item a, redesignating item b as item c, and adding a new item b to read as follows:]