

transmitter's account number is available through customer account records does not render the inclusion of information in a transmittal order superfluous.

Commenters requested clarification whether to record the amounts of transmittals involving foreign funds in the foreign exchange or its U.S. dollar equivalent. Treasury does not intend to change industry practice; therefore, in recording the amount transmitted, a financial institution may record either the amount of foreign funds or the U.S. dollar equivalent, in accordance with the financial institution's standard practice.

Bifurcated Transmittal Orders

In some instances, to effect payment across multiple time zones, a bank may have to bifurcate a transmittal order into a cover payment order and an underlying direct payment order. One commenter noted that inclusion of a recipient's name and address in both the transmittal order and the related cover order of the recipient might create a risk of duplicate payment.

It appears to Treasury that bifurcated transmittal orders are comprised of two separate transmittals of funds. Generally, the direct payment order is a transmittal from the originator to the recipient, and the cover payment order is a bank to bank transmittal, which may be effected through intermediary banks. In this analysis, the transmittal order for the cover payment order would not have to identify the recipient of the direct payment order, only the recipient bank. If appropriate, Treasury will consider issuing guidance on this question in the future.

Closed Systems

The proposed travel rule would have required any receiving intermediary financial institution accepting a transmittal order to include in a corresponding transmittal order either the name and address or the numerical identifier of the transmitter's financial institution. The proposed travel rule also would have required that any transmitter's financial institution, as well as any receiving intermediary financial institution, accepting a transmittal order to include in a corresponding transmittal order the identity of the recipient's financial institution.

Many commenters noted the difficulty of identifying the transmitter's financial institution and the recipient's financial institution in transmittals through closed systems. A closed system is a transmittal of funds service that permits a recipient to pick up transmitted funds

at any location within the closed system. Such a service can be either entirely domestic or international and does not rely on banks or other outside financial institutions to effect payment to the intended recipient; transmittals of funds are handled entirely by the service's own agents. Finally, and most important, complete records relating to any closed system transmittal of funds are maintained in one central location.

Commenters also noted that the requirement to identify the transmitter's financial institution might increase the risk of fraud and abuse. For example, the closed system agent serving as the recipient's financial institution could identify and contact the closed system agent that served as the transmitter's financial institution, and establish a funds transmittal service that would neither be conducted by the closed system nor be subject to its control. Commenters also noted that identification of the recipient's financial institution is difficult or impossible in most cases, because the transmitter may not know where the recipient will pick up the transmitted funds.

Treasury believes that the potential for fraud as described by the commenters may be best addressed by the closed systems and their agents themselves. This final rule requires that the transmitter's financial institution be identified in the transmittal order in all cases. However, in cases involving closed systems as described above, the requirement to identify the recipient's financial institution may be satisfied by including the closed system's name in the transmittal order. Although such information will not identify the specific closed system office that served as the recipient's financial institution, law enforcement's needs will be adequately met by records that are maintained and made available to law enforcement as required by regulation.

Executive Order 12866

Treasury finds that this final rule is not a significant rule for purposes of Executive Order 12866. This final rule is not anticipated to have an annual effect on the economy of \$100 million or more. It will not affect adversely in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. It creates no inconsistencies with, nor does it interfere with actions taken or planned by other agencies. Finally, it raises no novel legal or policy issues. A cost and benefit analysis is therefore not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this final rule will not have a significant economic impact on a substantial number of small entities.

The small entities that will be affected by this final rule include small banks and nonbank money transmitting businesses. This final rule exempts transmittals of funds in amounts of less than \$3,000; this exemption should particularly benefit nonbank providers of money transmitting services that handle smaller value transfers. Treasury does not believe that compliance with this final rule will require small entities to have specialized professional skills that are not generally available to them.

Paperwork Reduction Act

The collection of information requirements contained in this final rule have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information and the burden estimate should be directed to FinCEN, Office of Legal Counsel, 2070 Chain Bridge Road, Vienna, VA 22182, or to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, D.C. 20503.

Drafting Information

The principal author of this document is FinCEN. Technical assistance was also provided by the Federal Reserve Board and the Department of Justice.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Banks and banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

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

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. 5311-5329.

2. Section 103.33 is amended by adding new paragraph (g) to read as follows: