



Department of the Treasury Financial Crimes Enforcement Network

RULING

FIN-2013-R001

Issued: July 12, 2013

Subject: Treatment of Armored Car Service Transactions Conducted on Behalf of Financial Institution Customers or Third Parties for Currency Transaction Report Purposes

The Financial Crimes Enforcement Network (“FinCEN”) is issuing this administrative ruling in response to issues and concerns related to FinCEN ruling FIN-2009-R002.¹ That ruling clarified that, when an armored car service (“ACS”) is contracted to conduct transactions on behalf of a customer of a financial institution, the financial institution’s Currency Transaction Report (“CTR”) filing requirements would be the same as they would be with any other third-party facilitating a transaction for a customer. Although FIN-2009-R002 is consistent with current and past policy, financial institutions and the armored car services industry have raised issues that have led FinCEN to provide an exception to CTR data collection and aggregation requirements. This exception applies only when ACS employees conduct transactions that debit or credit the account of a financial institution’s customer pursuant to instructions received from the customer or from a third party.²

Background

According to the requirements of 31 CFR §§ 1010.311 and 1010.313, a financial institution must file a CTR if it has knowledge that one or more transactions by or on behalf of any person result in either cash-in or cash-out totaling more than \$10,000 during any one business day.³ In FIN-2009-R002, FinCEN clarified the aggregation standards and the minimum information requirements applicable to CTRs completed on transactions conducted by an ACS on behalf of a financial institution’s customer. Specifically, a financial institution is required to (a) collect the name, date of birth, and identification information of the ACS employee that made the delivery or pick-up (the natural person conducting the transaction); and (b) complete a CTR indicating

¹ FIN-2009-R002, “Treatment of Deposits by Armored Cars for Currency Transaction Report (CTR) Purposes,” Aug. 13, 2009.

² For purposes of this ruling, a third party is someone other than the financial institution or the financial institution’s customer, who directs a deposit or withdrawal be made to a customer account.

³ FinCEN regulations define “financial institution” as any agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of several capacities, such as a bank, a broker or dealer in securities, a money services business, a casino, or a mutual fund. 31 CFR § 1010.100(t).

multiple transactions, if applicable, for each ACS employee who, on any business day, delivers or picks up cash in one or more transactions that, in the aggregate, exceed \$10,000. All customers included in the transaction must be listed in the CTR, regardless of each customer's individual contribution to the total amount.

Issues Raised by Industry

Since the issuance of FIN-2009-R002, some financial institutions have maintained that they have had difficulties in differentiating transactions conducted by a given ACS on behalf of the financial institution from transactions conducted by the same company on behalf of a customer within the mandatory 15-day CTR filing period. Furthermore, some financial institutions stated that it is frequently difficult to obtain the personal identifying information of the ACS employee who physically delivers the cash. The ACSs have noted that the individual drivers are often reluctant to provide their personal information and that this raises security concerns for the driver, the money being delivered, and the financial institution customers and employees.

Exemptive Relief Granted for the Completion of CTRs on Certain ACS Transactions

Under the terms of 31 U.S.C. § 5318(a)(5) and 31 CFR § 1010.970, FinCEN has the authority to make exceptions to the requirements of 31 CFR Chapter X. Such exceptions may be either conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that such limits are expressly stated in the order of authorization. Exceptions may be revoked at FinCEN's discretion.⁴

Accordingly, based on the information presented, and to balance the interests of law enforcement and financial institutions, FinCEN is authorizing an exception to the requirements of 31 CFR §§ 1010.311 and 1010.313 regarding the reporting of currency transactions. While none of the reasons enumerated above alone might justify FinCEN's decision to provide exemptive relief, the totality of the circumstances here supports an exception from the requirements of 31 CFR §§ 1010.311 and 1010.313. This exception applies *only* to transactions reportable under 31 CFR § 1010.311 that are conducted by an ACS to debit or credit the account of a financial institution's customer pursuant to instructions received from the customer or from a third party. The exception and its application are set forth below:

1. Financial institutions are required to implement adequate procedures to determine whether an ACS is acting pursuant to instructions from the financial institution, from the financial institution's customer, or from a third party.
2. If the delivery to or pick-up from the financial institution (corresponding to a deposit to or withdrawal from a financial institution's customer's account) was performed by an ACS acting pursuant to instructions from the reporting financial institution, the customer would have to be identified in Section I of the CTR, but only box 24 of Section II ("Armored Car (FI Contract)") would need to be checked to satisfy the CTR requirements regarding the ACS.

⁴ 31 CFR § 1010.970(a).

3. If the delivery to or pick-up from the financial institution was performed by an ACS pursuant to instructions received from the financial institution's customer or from a third party, the financial institution must complete the CTR as follows:
 - The deliveries to and pick-ups from the financial institution conducted by the ACS pursuant to instructions from the financial institution's customer or from a third party on any one business day will be aggregated with any other currency transactions performed on behalf of the same customer on the same business day.⁵
 - If the financial institution has knowledge that the aggregate of all currency deposits or withdrawals by or on behalf of a customer on any one business day exceeds \$10,000, the financial institution will file a CTR identifying the customer and all persons conducting transactions (including the ACS and, if applicable, third parties on whose instructions the ACS conducted transactions) about whom the financial institution has obtained identifying information.⁶
 - In the case of an ACS that, acting pursuant to instructions from a person other than the reporting financial institution itself, makes a delivery to or pick-up from a customer's account in excess of \$10,000 on any one business day, the financial institution will satisfy the requirement to identify the party conducting the transaction by filling in the ACS's corporate information (corporate name, address, EIN, etc.). The name of the employee of the ACS will not be required.
4. If the financial institution has knowledge that the same ACS makes several deliveries or pick-ups below \$10,000 to or from the account of the same customer on any one business day (regardless of the person pursuant to whose instructions the ACS transactions were conducted), for a total exceeding \$10,000, the transactions will be aggregated for purposes of filing a CTR with respect to the customer.
5. The financial institution's reporting obligation regarding transactions conducted by an ACS pursuant to instructions from the financial institution's customer or from a third party is satisfied by filing CTRs aggregated by customer *only*.
6. If, in spite of implementing adequate procedures, the financial institution is unable to determine on whose instruction a specific ACS reportable transaction was conducted within the period allowed for the filing of the corresponding CTR, the financial institution may satisfy its CTR requirements by identifying the financial institution's customer and the ACS that conducted the transaction. The financial institution's obligation to identify the ACS

⁵ Please note that an ACS acting on behalf of a third party may not be covered by the limitation on the definition of "money transmitter" found at 31 CFR § 1010.100(ff)(5)(ii)(D). This limitation applies to a person that is primarily engaged in the physical transportation of currency, other monetary instruments, other commercial paper, or other value that substitutes for currency from one person to the same person at another location or to an account belonging to the same person at a financial institution, provided that the person engaged in the transportation has no more than a custodial interest in the items transported. An ACS acting pursuant to the instructions of a third party may fall under the regulatory definition of a money services business, specifically a money transmitter.

⁶ FIN-1989-R005 (formerly 89-5), "How does a financial institution fulfill the requirements that it furnish information about the person on whose behalf a reportable currency transaction is being conducted," Dec. 21, 1989.

shall be satisfied by filling in the ACS's corporate information (corporate name, address, EIN, etc.). The identifying information of the ACS employee is not required.

This Administrative Ruling supersedes FIN-2009-R002. Financial institutions that are ready to submit CTRs in accordance with this Administrative Ruling may start taking advantage of this relief immediately. Those financial institutions that may need to modify systems to file CTRs appropriately pursuant to FinCEN's regulations and this Administrative Ruling will be expected to do so no later than September 30, 2013. Examples of the completion of the new FinCEN Currency Transaction Report, involving transactions conducted by an ACS on behalf of a financial institution or on behalf of a financial institution's customer are provided in Appendix I.

We remind financial institutions that the exceptive relief contained in this letter (a) is applicable **only** to deposits or withdrawals conducted by an ACS pursuant to instructions from the financial institution's customer or from a third party; and (b) does not affect the financial institution's continuing obligation to file a suspicious activity report pursuant to 31 CFR §1010.320 and Subpart C of the financial institution's part in 31 CFR Chapter X when it knows, suspects, or has reason to suspect that, among other things, a transaction is intended to circumvent any requirement under the Bank Secrecy Act or any reporting requirement under Federal law or regulation, or has no lawful or apparent business purpose.

* * * * *

For questions concerning this guidance, please contact FinCEN's Regulatory Helpline at (800) 949-2732.

Attachment: [Appendix I](#)