



Department of the Treasury Financial Crimes Enforcement Network

RULING

FIN-2014-R003

Issued: March 11, 2014

Subject: Records to be Made and Maintained by Dealers in Foreign Exchange

The Financial Crimes Enforcement Network (“FinCEN”) is issuing this administrative ruling to clarify circumstances in which a dealer in foreign exchange may accept alternative travel documents as identification for a non-resident alien.¹

Background

According to the requirements of 31 CFR § 1022.410(b)(3), each dealer in foreign exchange shall retain either the original, a microfilm, other copy, or reproduction of a record of each exchange of currency involving transactions in excess of \$1,000. The information must include the name and address of the customer, the customer’s passport number or taxpayer identification number (unless received by mail or common carrier), the date and amount of the transaction, and the currency name, country, and total amount of each foreign currency. This administrative ruling provides that in certain circumstances a travel document other than a passport can serve as suitable identification documentation.

Issue Raised by Industry

Since the issuance of the original recordkeeping and verification requirements for dealers in foreign exchange, the United States has authorized non-resident aliens under certain circumstances to verify their identities and admissibility into the United States with documents other than passports when crossing the border. As a result, non-resident aliens seeking to exchange currency may not be holding a passport issued by their country of origin. Under these circumstances, a dealer in foreign exchange may be unable to comply with the requirement to record a customer’s passport number in connection with verifying the identity of a non-resident alien. These non-resident aliens would, however, have a document issued by a U.S. Federal or state agency allowing their legitimate entry into the United States.²

¹ FinCEN defines a “dealer in foreign exchange” as a “person that accepts the currency, or other monetary instruments, funds, or other instruments denominated in the currency, of one or more countries in exchange for the currency, or other monetary instruments, funds, or other instruments denominated in the currency, of one or more other countries in an amount greater than \$1,000 for any other person on any day in one or more transactions, whether or not for same-day delivery.” 31 CFR § 1010.100(ff)(1).

² As of the date of this administrative ruling, examples of such documentation issued by the U.S. Government are the Border Crossing Card bearing a B1/B2 visitor visa (http://travel.state.gov/visa/temp/types/types_1266.html) issued by the U.S. Department of State, and the Radio Frequency Identification Document issued by the U.S.

Exceptional Relief Granted for the Recordkeeping Requirement in Connection with Verifying the Identity of Non-Resident Aliens by Dealers in Foreign Exchange

FinCEN has the authority to provide exceptional relief from the requirements of 31 CFR Chapter X.³ Accordingly, in an effort to balance the interests of law enforcement and financial institutions, FinCEN authorizes the following exception to the requirements of 31 CFR § 1022.410(b)(3) for dealers in foreign exchange verifying the identity of non-resident aliens:

Each dealer in foreign exchange shall retain either the original or a microfilm or other copy or reproduction of each record of each exchange of currency involving transactions in excess of \$1,000, including the name and address of the customer, date and amount of the transaction, and currency name, country, and total amount of each foreign currency. Unless the transaction is received by mail or common carrier, each dealer in foreign exchange shall also retain the customer's taxpayer identification number and the number and description of the government document used to verify the customer's identity (or, if the customer is a non-resident alien, the number of the passport issued by the country of origin or the number and description of an alternate valid entry document issued by a U.S. Federal or state government agency).

We remind financial institutions that the exceptional relief contained in this letter is applicable *only* to the recordkeeping requirement in connection with verifying the identity of a non-resident alien engaged in an exchange of currency at a dealer in foreign exchange. The ruling does not affect the financial institution's continuing obligation to file a suspicious activity report 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 transaction reporting requirement under Federal law or regulation, or has no lawful or apparent business purpose.⁴

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

Customs and Border Patrol pursuant to the SENTRI Program
(http://www.cbp.gov/xp/cgov/travel/trusted_traveler/sentri/).

³ Such exceptions may be conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that it is expressly stated in the order of authorization. Moreover, exceptions may be revoked at FinCEN's discretion. 31 U.S.C. § 5318(a)(6); 31 CFR § 1010.970(a).

⁴ 31 CFR § 1022.320 (suspicious activity reporting requirements for dealers in foreign exchange).