

DEPARTMENT OF THE TREASURY

ORDER IMPOSING RECORDKEEPING AND REPORTING OBLIGATIONS ON CERTAIN U.S. FINANCIAL INSTITUTIONS WITH RESPECT TO TRANSACTIONS INVOLVING HALAWI EXCHANGE CO. AS A FINANCIAL INSTITUTION OF PRIMARY MONEY LAUNDERING CONCERN

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

ACTION: Order.

SUMMARY: Pursuant to the authority contained in 31 U.S.C. 5318A, the Director of FinCEN found on April 22, 2013, that Halawi Exchange Co. (“Halawi Exchange”) is a financial institution operating outside the United States that is of primary money laundering concern. Pursuant to the authority contained in 31 U.S.C. 5318A(b)(1), the Director of FinCEN is issuing an order imposing certain recordkeeping and reporting obligations with respect to transactions involving Halawi Exchange(the “Order”).

DATES: The Order was effective on April 23, 2013. The Order will remain in effect until August 21, 2013.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, FinCEN, (800) 949-2732.

SUPPLEMENTARY INFORMATION:

On April 22, 2013, the Director of FinCEN, pursuant to 31 U.S.C. 5318A, found Halawi Exchange to be a Financial Institution of Primary Money Laundering Concern (the “Finding”). Notice of the Finding is published elsewhere in this issue of the *Federal Register*.

Also published elsewhere in this issue of the *Federal Register* is a notice of proposed rulemaking (“NPRM”) proposing to apply the first and fifth special measures

provided in 31 U.S.C. 5318A to any transaction or attempted transaction involving Halawi Exchange. The explanations and interpretations found in the NPRM are applicable to this Order to the extent that this Order imposes the same obligations proposed in the NPRM.

This Order addresses FinCEN's concern that Halawi Exchange may continue to be involved in transactions that present a substantial money laundering risk prior to any implementation of the proposed rule.

This Order applies to covered financial institutions as defined in 31 CFR 1010.605(e)(1), and money transmitters that are required to register under 31 CFR 1022.380 ("principal money transmitters"), that are requested to process transactions involving Halawi Exchange. This Order requires covered financial institutions and principal money transmitters to report the information listed in Part 2 below in a comma separated value ("CSV") file. Covered financial institutions and principal money transmitters are required to load the CSV file on an encrypted CD ROM and mail the CD ROM on or before the 15th day following the date of the transaction or the date the covered financial institution or principal money transmitter became aware of the attempted transaction to the Department of the Treasury, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, Virginia 22183-0039 (Attn: 311 Reporting). Information of a contact person from whom FinCEN may obtain the encryption password should be enclosed in the mailing. To ease regulatory burden and as appropriate, reports filed as Bank Secrecy Act-Suspicious Activity Reports ("BSA-SARs") will be deemed to comply with this reporting requirement if filed within 15 days with all required information included in an attached CSV file and containing both in the narrative and

field 35z the text “Halawi Exchange SM1 Report”. As long as transactions or attempted transactions are reported within the fifteen-day requirement and the attached CSV file does not exceed one megabyte, multiple transactions may be reported on the same BSA-SAR.

This Order imposes requirements with respect to entities identified as primary money laundering concern for their involvement in laundering the proceeds of narcotics traffickers and money launderers. Because advanced notice of this action could result in the loss of reporting information related to these entities, and section 311 of the USA PATRIOT Act authorizes the issuance of this Order without a prior notice of proposed rulemaking, it is found to be impracticable, unnecessary, and contrary to the public interest to comply with notice and public procedure under 5 U.S.C. 553(b). For these reasons, the Order is made effective before 30 days have passed after its publication date. See 5 U.S.C. 553(d). In addition, the provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this Order because FinCEN was not required to publish a prior notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

By virtue of the authority contained in 31 U.S.C. 5318A and delegated to the Director of FinCEN, I hereby order, for the period from April 23, 2013 through August 21, 2013 that:

Part 1 - Requirements for financial institutions subject to this Order

- (1) Identifying Transactions or Attempted Transactions Involving Halawi Exchange Co. A financial institution subject to this Order is required to use its existing anti-money laundering programs and processes to identify transactions or attempted

transactions involving Halawi Exchange Co. U.S. financial institutions generally apply some degree of due diligence in screening their transactions and accounts, often through the use of commercially available software such as that used for compliance with the economic sanctions programs administered by the Office of Foreign Assets Control of the Department of the Treasury. The identification required by this Order may be accomplished by relying on these same automated programs and filters used to identify sanctioned entities.

- (2) Reporting. A financial institution subject to this Order is required to take reasonable steps to collect and report to FinCEN on the following information with respect to any transaction or attempted transaction involving Halawi Exchange Co.:
- (i) The identity and address of the participants in the transaction or attempted transaction, including the identity of the originator and beneficiary of any funds transfer;
 - (ii) the legal capacity in which Halawi Exchange Co. is acting with respect to the transaction or attempted transaction and, to the extent to which Halawi Exchange Co. is not acting on its own behalf, the customer or other person on whose behalf Halawi Exchange Co. is acting; and
 - (iii) a description of the transaction or attempted transaction and its purpose.
- (3) When to file. A report required this Order shall be filed by the financial institution subject to the Order within fifteen business days following the day when the financial institution subject to the Order engaged in the transaction or became aware of an attempted transaction. Willful failure to provide timely,

accurate, and complete information in such reporting may constitute a violation of this Order subject to civil and criminal penalties under 31 U.S.C. 5321 and 5322.

- (4) Form of Reporting. A report required by this Order shall be filed on an encrypted CD ROM sent to the Department of the Treasury, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, Virginia 22183-0039 (Attn: 311 Reporting) However, if a financial institution subject to this Order determines the reportable transaction to be suspicious, filing FinCEN Form 111 within 15 days with all required information included in an attached CSV file and containing both in the narrative and field 35z the text “Halawi Exchange SM1 Report” will be deemed to comply with this Order. The collection of information required by this Order is approved under OMB Control Number 1506-0065. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

Part 2 – Specifications for Reporting.

- (1) Financial institutions subject to this Order shall place the required information in a CSV file in the following format:

Transaction Reference Number, Payment Date, Instruction Date, Payment Amount, Transmitter’s Account Number, Transmitters’s Full Name, Transmitters’s Address, Transmitter’s Financial Institution’s Identifier, Transmitter’s Financial Institution’s Name, Transmitter’s Financial Institution’s Address, Incoming Correspondent Financial Institution’s Identifier, Incoming Correspondent Financial Institution’s Name, Incoming Correspondent Financial Institution’s Address, Outgoing Correspondent Financial Institution’s Identifier,

Outgoing Correspondent Financial Institution's Name, Outgoing Correspondent Financial Institution's Address, Recipient's Financial Institution's Identifier, Recipient's Financial Institution's Name, Recipient's Financial Institution's Address, Recipient's Account Number, Recipient's Full Name, Recipient's Address, Payment Instructions.

Part 3 - Definitions.

When used in this Order, where not otherwise distinctly defined or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in 31 CFR 1010.100. For purposes of this Order, the following terms shall have the following meanings:

- (1) Halawi Exchange Co. means all branches, offices, and subsidiaries of Halawi Exchange Co. operating in any jurisdiction.
- (2) Financial institution subject to the Order means a covered financial institution as defined in 31 CFR 1010.605(e)(1) or a money transmitter required to register under 31 CFR 1022.380.
- (3) Subsidiary means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by Halawi Exchange Co.
- (4) Transaction Reference Number means a reference number assigned to a transaction by the reporting financial institution.
- (5) Incoming Correspondent Financial Institution means the financial institution that sent the transmittal order to the reporting financial institution.
- (6) Outgoing Correspondent Financial Institution means the financial institution to which the reporting financial institution will send a transmittal order.

