



Department of the Treasury Financial Crimes Enforcement Network

Answers to Frequently Asked Questions About 31 CFR Chapter X

The following provides answers to basic questions that are frequently asked regarding the transfer of FinCEN's regulations from 31 CFR Part 103 to 31 CFR Chapter X on March 1, 2011. The answers are not meant to be comprehensive, apply to all factual situations, or to replace or supersede FinCEN's regulations. Additional questions and answers will be posted on a periodic basis.

Question 1: Why is FinCEN transferring its regulations from 31 CFR Part 103 to a new stand-alone chapter in the CFR (31 CFR Chapter X)?

Answer 1: On November 7, 2008, FinCEN published a proposal to transfer and reorganize its regulations as part of an ongoing effort to increase the efficiency and effectiveness of its regulatory oversight.¹ Consistent with the practice of other regulatory agencies, FinCEN's rules have been reorganized and renumbered into a new tenth chapter of Title 31 which appears as "Title 31 Chapter X – Financial Crimes Enforcement Network. Moving the regulations to a new chapter within Title 31 provides FinCEN with the opportunity to restructure its regulations so that they can readily be identified as being specific to a particular regulated industry or as being generally applicable to all regulated industries or covered persons. Making the regulatory obligations clearer in their structure and more readily accessible to regulated institutions facilitates compliance and thereby advances the purposes of the Bank Secrecy Act (BSA) to protect the financial system from criminal abuse. Additionally, the transfer of FinCEN's regulations allows for better integration with the government-wide eRulemaking program.

Question 2: Does this transfer to 31 CFR Chapter X alter any existing regulatory requirements?

Answer 2: No, the transfer and reorganization of the BSA regulations from 31 CFR Part 103 to 31 CFR Chapter X does not alter any existing regulatory obligation nor impose any new regulatory obligations on financial institutions. To emphasize this fact, FinCEN is arranging with the Federal Register to include a brief note at the beginning of Chapter I of Title 31 in the published Code of Federal Regulations that will state that Part 103 of Chapter I has been removed and added in Chapter X of Title 31. This note will remain in the Code of Federal Regulations for 10 years. FinCEN is further arranging with the Federal Register to include a

¹ See 73 FR 66414 (November 7, 2008) (Transfer and Reorganization of Bank Secrecy Act Regulations), hereafter referred to as the Chapter X NPRM.

Chapter X distribution table within the Finding Aides section of the published CFR volume containing Chapter X.

Question 3: When will the transfer of 31 CFR Part 103 to 31 CFR Chapter X become effective?

Answer 3: The transfer of FinCEN's regulations in 31 CFR Part 103 to 31 CFR Chapter X will become effective on March 1, 2011. Until that time, FinCEN's regulations remain under 31 CFR Part 103.

Question 4: How will the organization of 31 CFR Chapter X differ from the current structure of FinCEN's regulations?

Answer 4: As discussed in the Chapter X NPRM, FinCEN is restructuring its regulations to make them more accessible for covered individuals and financial institutions. Chapter X is comprised of a General Provisions Part and separate financial institution specific Parts for those financial institutions subject to FinCEN regulations. The General Provisions Part (Part 1010) contains regulatory requirements that apply to more than one type of financial institution, and in some cases, individuals. The financial institution specific Parts contain regulatory requirements specific to a particular type of financial institution. Each Part, whether general or specific, contains similarly titled and ordered Subparts. For consistency across all Parts and to facilitate ease of reference, FinCEN has renumbered its regulations so that the same numbering format is used for the regulations in each Subpart. To illustrate this restructuring, FinCEN has published a subpart index on its website at [http://www.fincen.gov/statutes_regs/chapter x/](http://www.fincen.gov/statutes_regs/chapter_x/).

Question 5: How will citations to FinCEN's regulations change as a result of their transfer to 31 CFR Chapter X?

Answer 5: Effective March 1, 2011, the appropriate citation for FinCEN's regulations will be to 31 CFR Chapter X. Until that time, the appropriate citation will be to 31 CFR Part 103. It is very important to note, however, that 31 CFR Chapter X legally incorporates the substantive regulatory provisions of 31 CFR Part 103. The underlying regulatory obligations do not change and remain in effect, regardless of whether the particular regulatory citation to that provision is to 31 CFR Part 103 or 31 CFR Chapter X.

As a means of clarifying the consistency of the underlying regulatory requirements, FinCEN recommends the use of the following citation approach:

- For citations to the regulatory provisions of 31 CFR Part 103 through February 28, 2011, please use the current 31 CFR Part 103 citation and note in parentheses the future 31 CFR Chapter X citation. For example, a citation to the requirement for certain money services businesses to register with FinCEN would be cited as “31 CFR 103.41 (future 31 CFR 1022.380)”.
- For citations to the same regulatory provision beginning March 1, 2011, FinCEN recommends initially using the 31 CFR Chapter X citation and noting in parentheses the former 31 CFR Part 103 citation. For example, the citation to the requirement for certain money services business to register with FinCEN would be cited as “31 CFR 1022.380 (formerly 31 CFR 103.41)”. As familiarity with 31 CFR Chapter X grows, FinCEN expects the need to include the former 31 CFR Part 103 citations to diminish.
- For citations following March 1, 2011, but referencing activity that occurred before March 1, 2011, please use the appropriate 31 CFR Part 103 citation but note in parentheses the appropriate 31 CFR Chapter X citation. For example, the citation to the requirement for certain money services businesses to register with FinCEN would be cited as “31 CFR 103.41 (31 CFR 1022.380)”.

FinCEN recognizes that it may take some time to become familiar with the new numbering system and has been working with federal and state regulators, examiners, and law enforcement officials as well as the financial institutions subject to its regulations to assist in their transition. To that end, FinCEN has published a cross-reference guide that lists the citation changes to 31 CFR Chapter X for each existing regulatory provision under 31 CFR Part 103. This guide is also found in the Chapter X Final Rule. An annotated version of this cross-reference guide will soon be made available. FinCEN also has provided an automated citation translator that converts a regulatory citation from 31 CFR Part 103 to its 31 CFR Chapter X regulatory citation and vice versa. These and other helpful tools and information related to Chapter X are available on FinCEN’s website at [http://www.fincen.gov/statutes_regs/chapter x/](http://www.fincen.gov/statutes_regs/chapter_x/). If your organization requires additional assistance or guidance regarding the transfer of FinCEN’s regulations to 31 CFR Chapter X, please contact FinCEN’s Regulatory Helpline at (800) 949-2732 ext 6.

Question 6: Will FinCEN update its forms and other documents or publications with the new Chapter X citations?

Answer 6: Yes, FinCEN is updating all regulatory citations found in its forms to 31 CFR Chapter X. These updated forms will be available for use as of March 1, 2011. Please note that even after these updated forms become available, FinCEN will continue to accept and process all currently acceptable forms that contain citations to 31 CFR Part 103. When the updated forms become available on March 1, 2011, they will be accessible at www.fincen.gov/forms. FinCEN

also is working to update its systems to incorporate the appropriate 31 CFR Chapter X citations (as noted in question #5) within all official copies or certified facsimiles of the BSA reports filed beginning March 1, 2011 and all official disclaimers associated with any official copy or certified facsimile of a BSA report (regardless of when originally filed with FinCEN).

Question 7: How will FinCEN incorporate any new Final Rules that may be implemented between publication of the Chapter X Final Rule and its effective date of March 1, 2011? After March 1, 2011?

Answer 7: During the time period between publication of the Chapter X Final Rule and its effective date, FinCEN may finalize some of the currently outstanding notices of proposed rulemakings for BSA regulations. If new final BSA regulations are published before March 1, 2011, those regulations will be published in the 31 CFR Part 103 format. FinCEN will also publish an amendment to 31 CFR Chapter X so that on March 1, 2011 all BSA regulations will be contained in 31 CFR Chapter X.

All Final Rules published following the effective date of the Chapter X Final Rule will be published in the Chapter X format.

Question 8: Will FinCEN be updating previously published materials with 31 CFR Chapter X citations? Should our organization do the same?

Answer 8: FinCEN will not be updating the citations in previously published materials. Such a change is unnecessary as the citations properly refer to the regulations as structured at the time of the materials' publication. FinCEN will follow the citation structure highlighted above in the answer to FAQ #5. FinCEN recommends that organizations not update the citations in previously published materials for similar reasons, but that they move as quickly as practical to update documents, training programs, and other materials or systems with the appropriate 31 CFR Chapter X citations. FinCEN will work with organizations requiring further guidance and assistance.

Question 9: What will happen to the appendices to 31 CFR Part 103 as part of the transfer of the BSA regulations to 31 CFR Chapter X?

Answer 9: As part of the transfer of the BSA regulations from 31 CFR Part 103 to 31 CFR Chapter X, FinCEN has determined that the appendices currently found in 31 CFR Part 103 will not need to be included in 31 CFR Chapter X. Instead, the material contained in those

appendices that is still required by the regulations will be made available on FinCEN's website as of March 1, 2011, at [http://www.fincen.gov/statutes_regs/chapter x/](http://www.fincen.gov/statutes_regs/chapter_x/).

The following provides the disposition of each appendix:

- Appendix A to 31 CFR Part 103: Administrative rulings with precedential value were posted on the FinCEN public website per a Final Rule published on November 17, 2009, amending the procedures for publicly issuing an administrative ruling relating to the BSA.²
- Appendix B to 31 CFR Part 103: The requirement for a financial institution to provide FinCEN with the certification currently found in Appendix B to 31 CFR Part 103 (Certification for Purposes of Section 314(b) of the USA PATRIOT Act and 31 CFR 103.110) prior to sharing information under 31 CFR 103.110 (new 31 CFR 1010.540) was replaced in September 2002 with a requirement to provide notice to FinCEN prior to such information sharing.³ Although the certification requirement was replaced with a notice requirement, the Certification contained at Appendix B to 31 CFR Part 103 was not removed from the CFR. FinCEN's removal of the Certification in this Final Rule is a technical correction, rather than a substantive change. The Certification contained at Appendix B to 31 CFR Part 103 will not be transferred to Chapter X and the Certification will not be made available on FinCEN's public website. As indicated above, financial institutions providing notice to FinCEN prior to sharing information under new 31 CFR 1010.540 shall continue to do so using the notice that is currently provided on FinCEN's public website.⁴
- Appendix C to 31 CFR Part 103: The interpretative guidance contained within Appendix C to 31 CFR Part 103 are posted on FinCEN's public website and will not be published in the CFR.⁵
- Appendix A to Subpart H of 31 CFR Part 103: Appendix A to Subpart H of 31 CFR Part 103 contains the Notice for Purposes of Subsection 314(b) of the USA Patriot Act and 31 CFR 103.110. This Notice is currently available on the FinCEN public website and will not be published in the Code of Federal Regulations as part of Chapter X. Financial institutions that are required to provide notice to FinCEN for purposes of the new 31 CFR 1010.540 can access the notice via the FinCEN website. This notice will be made available by mail to any financial institution that specifically requests a paper copy of the notice.

² See 74 FR 59096 (November 17, 2009) (Final Rule for amending the Bank Secrecy Act Regulations Administrative Ruling System).

³ See 67 FR 60579, 60580 (September 26, 2002) (Final Rule for Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity).

⁴ See http://www.fincen.gov/statutes_regs/patriot/section314b.html.

⁵ See http://www.fincen.gov/statutes_regs/guidance/2000_2004.html.

- Appendix A and Appendix B to Subpart I of 31 CFR Part 103: FinCEN is also removing Appendix A to Subpart I of 31 CFR Part 103 and Appendix B to Subpart I of 31 CFR Part 103.⁶ The forms contained in these Appendices will be provided to the public via FinCEN's website in a manner that will be more easily accessible and usable than being printed in the CFR.

The disposition of these appendices and a list of other changes and non-substantive technical corrections to the BSA implementing regulations are published on FinCEN's website at [http://www.fincen.gov/statutes_regs/chapter x/](http://www.fincen.gov/statutes_regs/chapter_x/).

If your organization requires additional assistance or guidance regarding the transfer of FinCEN's regulations to 31 CFR Chapter X, please contact FinCEN's Regulatory Helpline at (800) 949-2732 ext. 6.

⁶ Appendix A to Subpart I of 31 CFR Part 103 (proposed as Appendix B to Chapter X) is the Certification Regarding Correspondent Accounts. Appendix B to Subpart I of 31 CFR Part 103 (proposed as Appendix C to Chapter X) is the Recertification Regarding Correspondent Accounts for Foreign Banks. These Appendices will not appear in Chapter X.