



# Department of the Treasury Financial Crimes Enforcement Network

## Ruling

**FIN-2008-R013**

**Issued: December 18, 2008**

**Subject: Whether a Non-Listed Insurance Company May Be Exempted from  
Currency Transaction Reporting**

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Dear [ ]:

This letter responds to your May 27, 2008 request to the Financial Crimes Enforcement Network (“FinCEN”) for an administrative ruling on whether a “non-listed”<sup>1</sup> insurance company “serves as a financial institution” and is therefore an “ineligible business” pursuant to 31 C.F.R. § 103.22(d)(6)(viii). You ask us to assume that the insurance company does not engage in any of the other activities described in 31 C.F.R. §103.22(d)(6)(viii).

Our rules implementing the Bank Secrecy Act (the “BSA”) require a financial institution to file a Currency Transaction Report (“CTR”) for “each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000.”<sup>2</sup> The BSA, however, does not require banks to file CTRs on transactions conducted by exempt persons.<sup>3</sup> Exempt persons may include non-listed businesses, as long as they meet the requirements of 31 C.F.R. § 103.22(d)(2)(vi) and are not considered ineligible under 31 C.F.R. § 103.22(d)(6)(viii). A non-listed business is considered ineligible under 31 C.F.R. § 103.22(d)(6)(viii) if it derives more than 50% of its gross revenue from one or more of the activities described in 31 C.F.R. § 103.22(d)(6)(viii).<sup>4</sup> These activities include “serving as a financial institution...of any type.”<sup>5</sup>

As you note in your request, the definition of “financial institution” in the BSA includes insurance companies.<sup>6</sup> The regulatory definition of “financial institution,” appearing at 31 C.F.R. 103.11(n), does not include insurance companies. Whether the statutory or the regulatory definition applies in this case is determinative of whether a non-listed insurance company is eligible for exemption from CTR requirements.

In our rules implementing the BSA, the term “financial institution” has the meaning assigned to the term in 31 C.F.R. 103.11(n), unless “otherwise distinctly

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<sup>1</sup> See 31 C.F.R. § 103.22(d)(2)(vi).

<sup>2</sup> 31 C.F.R. § 103.22(b).

<sup>3</sup> 31 C.F.R. § 103.22(d).

<sup>4</sup> 31 C.F.R. § 103.22(d)(6)(viii).

<sup>5</sup> 31 C.F.R. § 103.22(d)(6)(viii).

<sup>6</sup> 31 USC 5312(a)(2)(M).

expressed” or “manifestly incompatible with the intent” of the rule in which the term appears.<sup>7</sup> Unlike other sections of 31 C.F.R. Part 103, which state explicitly that the term “financial institution” includes all of the entities enumerated in the BSA,<sup>8</sup> our rule on the reporting of currency transactions is silent.<sup>9</sup> Therefore any use of the term “financial institution” in 31 C.F.R. § 103.22 refers to the regulatory definition in 31 C.F.R. § 103.11(n). Because insurance companies do not fall within the regulatory definition of “financial institution,” they are eligible for exemption.

In arriving at the determinations in this administrative ruling, we have relied upon the accuracy and completeness of the representations in your letter. Nothing precludes us from seeking further action should any of this information prove inaccurate or incomplete. We reserve the right to publish this letter as guidance to financial institutions, with information redacted in accordance with your request under 31 C.F.R. § 103.81(a)(5) and as indicated in your May 27, 2008 letter. You will have 14 days after the date of this administrative ruling to identify any other information that you believe should be redacted and the legal basis for the redaction. Should you have any additional questions, please contact FinCEN’s regulatory helpline at (800) 949-2732.

Sincerely,

//signed//

Jamal El-Hindi  
Associate Director  
Regulatory Policy and Programs Division

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<sup>7</sup> 31 C.F.R. § 103.11.

<sup>8</sup> *See, e.g.*, 31 C.F.R. § 103.100(a)(2).

<sup>9</sup> 31 C.F.R. § 103.22.