

# Information Memo

New York Stock Exchange, Inc.  
20 Broad Street  
New York, NY 10005

Member Firm Regulation



Number 89-14  
March 22, 1989

**ATTENTION:** CHIEF FINANCIAL OFFICER, CHIEF OPERATIONS OFFICER,  
COMPLIANCE AND LEGAL DEPARTMENTS

**TO:** MEMBERS AND MEMBER ORGANIZATIONS

**SUBJECT:** AMENDMENTS TO BANK SECRECY ACT REGULATIONS  
RELATING TO CURRENCY TRANSACTIONS

On January 23, 1989, the Department of Treasury filed notice in the Federal Register (Vol. 54, No. 13) of amendments to Bank Secrecy Act ("BSA") regulations relating to domestic currency transactions. The purpose of this memorandum is to highlight two of these amendments which will have an impact on members and member organizations.

## Background

Rule 17a-8 of the Securities Exchange Act of 1934 requires broker-dealers to file reports and make and preserve records pursuant to the Currency and Foreign Transactions Reporting Act of 1970 (also known as the Bank Secrecy Act) and the regulations adopted thereunder. Under these regulations, members and member organizations must file a Currency Transaction Report (Form 4789, the "CTR") with Internal Revenue Service, Department of Treasury to report currency transactions of \$10,000 or more.

## Amendments to BSA Regulations

The first amendment to the Bank Secrecy Act (31 CFR 103.27) clarifies that a person conducting currency transactions for another person must report, on the CTR, the name of the person on whose behalf the transaction was conducted. Treasury amended the regulation to make it clear that a financial institution must obtain and report the identity and other required information about the person for whom the currency transaction was conducted.

The second amendment adds a definition of "structuring" to the anti-structuring provision of the BSA (31 CFR 103.53), which prohibits a person from structuring or assisting in structuring, any transaction with one or more domestic financial institutions for the purpose of evading the currency transaction reporting requirements.

The new definition provides that a person structures a transaction if:

- Acting alone, or in conjunction with, or on behalf of, other persons;
- He conducts, attempts to conduct or assists in conducting;
- One or more transactions in currency;
- In any amount;
- At one or more financial institutions;
- On one or more days;
- In any manner;
- For the purpose of evading the reporting requirements of 31 CFR 103.22.

The definition also states that "[t]he transaction or transactions need not exceed the \$10,000 reporting threshold at any single financial institution on any single day in order to constitute structuring within the meaning of this definition." This makes it clear that structuring is not limited to multiple transactions conducted on the same day at a single financial institution.

If a financial institution suspects, either because of the personal knowledge of its employees or because of its computer or other recordkeeping system, that structuring is taking place, the financial institution should check its records to ascertain whether currency transactions have taken place that must be reported pursuant to 31 CFR 103.22(a), and should report its suspicion to the local office of the Internal Revenue Service's Criminal Investigation Division. Any information given the IRS should be given within the confines of section 1103(c) of the Right to Financial Privacy Act. (Also see NYSE Information Memo Number 89-5, January 20, 1989, for additional information on reporting suspicious transactions.)

The Exchange recommends that members and member organizations obtain and review the Federal Register notice concerning these two amendments. The notice provides detailed explanations of the amendments and several examples that illustrate "structuring" and various ways that persons perform transactions for others.

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Edward A. Kwalwasser  
Senior Vice President  
Member Firm Regulation