

## Monetary Offices, Treasury

## § 103.87

ruling request. Accordingly, the conferees will not be bound by any argument or position advocated or agreed to, expressly or impliedly, during the conference. Any new arguments or facts put forth by the requester at the meeting must be reduced to writing by the requester and submitted in conformity with §103.81 before they may be considered in connection with the request.

(Approved by the Office of Management and Budget under control number 1505-0105)

[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

### § 103.84 **Withdrawing requests.**

A person may withdraw a request for an administrative ruling at any time before the ruling has been issued.

### § 103.85 **Issuing rulings.**

The Assistant Secretary (Enforcement), or his designee may issue a written ruling interpreting the relationship between part 103 and each situation for which such a ruling has been requested in conformity with §103.81. A ruling issued under this section shall bind the Treasury Department only in the event that the request describes a specifically identified actual situation. A ruling issued under this section shall have precedential value, and hence may be relied upon by others similarly situated, only if it is published or will be published by the Office of Financial Enforcement in the FEDERAL REGISTER. Rulings with precedential value will be published periodically in the FEDERAL REGISTER and yearly in the Appendix to this part. All rulings with precedential value will be available by mail to any person upon written request specifically identifying the ruling sought. Treasury will make every effort to respond to each requestor within 90 days of receiving a request.

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[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

### § 103.86 **Modifying or rescinding rulings.**

(a) The Assistant Secretary (Enforcement), or his designee may modify or

rescind any ruling made pursuant to §103.85:

(1) When, in light of changes in the statute or regulations, the ruling no longer sets forth the interpretation of the Assistant Secretary (Enforcement) with respect to the described situation,

(2) When any fact or statement submitted in the original ruling request is found to be materially inaccurate or incomplete, or

(3) For other good cause.

(b) Any person may submit to the Assistant Secretary (Enforcement) a written request that an administrative ruling be modified or rescinded. The request should conform to the requirements of §103.81, explain why rescission or modification is warranted, and refer to any reasons in paragraph (a) of this section that are relevant. The request may advocate an alternative interpretation and may set forth the legal and factual basis for that interpretation.

(c) Treasury shall modify an existing administrative ruling by issuing a new ruling that rescinds the relevant prior ruling. Once rescinded, an administrative ruling shall no longer have any precedential value.

(d) An administrative ruling may be modified or rescinded retroactively with respect to one or more parties to the original ruling request if the Assistant Secretary determines that:

(1) A fact or statement in the original ruling request was materially inaccurate or incomplete,

(2) The requestor failed to notify in writing the Office of Enforcement of a material change to any fact or statement in the original request, or

(3) A party to the original request acted in bad faith when relying upon the ruling.

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[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

### § 103.87 **Disclosing information.**

(a) Any part of any administrative ruling, including names, addresses, or information related to the business transactions of private parties, may be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. If the request for an administrative ruling contains information

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which the requestor wishes to be considered for exemption from disclosure under the Freedom of Information Act, the requestor should clearly identify such portions of the request and the reasons why such information should be exempt from disclosure.

(b) A requestor claiming an exemption from disclosure will be notified, at least 10 days before the administrative ruling is issued, of a decision not to exempt any of such information from disclosure so that the underlying request for an administrative ruling can be withdrawn if the requestor so chooses.

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### Subpart H—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

SOURCE: 67 FR 9876, Mar. 4, 2002, unless otherwise noted.

#### § 103.90 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Money laundering* means an activity criminalized by 18 U.S.C. 1956 or 1957.

(b) *Terrorist activity* means an act of domestic terrorism or international terrorism as those terms are defined in 18 U.S.C. 2331.

(c) *Account* means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions, and includes, but is not limited to, a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

(d) *Transaction*. (1) Except as provided in paragraph (d)(2) of this section, the term “transaction” shall have the same meaning as provided in § 103.11(ii).

(2) For purposes of § 103.100, a transaction shall not mean any transaction conducted through an account.

[67 FR 60585, Sept. 26, 2002]

#### § 103.100 Information sharing between Federal law enforcement agencies and financial institutions.

(a) *Definitions*. For purposes of this section:

(1) The definitions in § 103.90 apply.

(2) *Financial institution* means any financial institution described in 31 U.S.C. 5312(a)(2).

(3) *Transmittal of funds* has the same meaning as provided in § 103.11(jj).

(b) *Information requests based on credible evidence concerning terrorist activity or money laundering*—(1) *In general*. A Federal law enforcement agency investigating terrorist activity or money laundering may request that FinCEN solicit, on the investigating agency’s behalf, certain information from a financial institution or a group of financial institutions. When submitting such a request to FinCEN, the Federal law enforcement agency shall provide FinCEN with a written certification, in such form and manner as FinCEN may prescribe. At a minimum, such certification must: state that each individual, entity, or organization about which the Federal law enforcement agency is seeking information is engaged in, or is reasonably suspected based on credible evidence of engaging in, terrorist activity or money laundering; include enough specific identifiers, such as date of birth, address, and social security number, that would permit a financial institution to differentiate between common or similar names; and identify one person at the agency who can be contacted with any questions relating to its request. Upon receiving the requisite certification from the requesting Federal law enforcement agency, FinCEN may require any financial institution to search its records to determine whether the financial institution maintains or has maintained accounts for, or has engaged in transactions with, any specified individual, entity, or organization.

(2) *Obligations of a financial institution receiving an information request*—(i) *Record search*. Upon receiving an information request from FinCEN under this section, a financial institution shall expeditiously search its records to determine whether it maintains or has maintained any account for, or has engaged in any transaction with, each individual, entity, or organization named in FinCEN’s request. A financial institution may contact the Federal law enforcement agency named in the