Par. 3. Section 1.460–6T is added to read as follows:

§ 1.460–6T Look-back method (temporary).

(a) through (h) [Reserved] For further guidance, see § 1.460–6 (a) through (h).

(i) [Reserved]

(j) *Election not to apply look-back method in de minimis cases.* Section 460(b)(6) provides taxpayers with an election not to apply the look-back method to long-term contracts in de minimis cases, effective for contracts completed in taxable years ending after August 5, 1997. To make an election, a taxpayer must attach a statement to its timely filed original federal income tax return (including extensions) for the taxable year the election is to become effective or to an amended return for that year, provided the amended return is filed on or before March 31, 1998. This statement must have the legend ''NOTIFICATION OF ELECTION UNDER SECTION 460(b)(6)''; provide the taxpayer's name and identifying number and the effective date of the election; and identify the trades or businesses that involve long-term contracts. An election applies to all long-term contracts completed during and after the taxable year for which the election is effective. An election may not be revoked without the Commissioner's consent. A consolidated group of corporations, as defined in § 1.1502–1(h), is subject to consistency rules analogous to those in § 1.460–6(e)(2) (concerning election to use delayed reapplication method) and in § 1.460–6(d)(4)(ii)(C) (concerning election to use simplified marginal impact method).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (c) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * *	*
1.460–6T	1545–1572
* * * *	*

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

Approved: December 18, 1997.

Donald C. Lubick,
Acting Assistant Secretary of the Treasury.

[FR Doc. 98–599 Filed 1–12–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

Scaffolds

CFR Correction

In Title 29 of the Code of Federal Regulations, part 1926, revised as of July 1, 1997, on page 311, second column, in the last line of the effective date note, the bold text reading, ''Training requirements'' should be removed. The following section number and heading should precede the text following the effective date note.

§ 1926.454 Training requirements.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA18

Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping by Card Clubs

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Crimes Enforcement Network (''FinCEN'') is amending the regulations implementing the statute generally referred to as the Bank Secrecy Act to include certain gaming establishments, commonly called ''card clubs,'' ''card rooms,'' ''gaming clubs,'' or ''gaming rooms'' within the definition of financial institution subject to those regulations.

EFFECTIVE DATE: August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Leonard C. Senia, Senior Financial Enforcement Officer, Office of Program Development, Financial Crimes Enforcement Network, (703) 905–3931, or Cynthia L. Clark, Acting Deputy Legal Counsel, Financial Crimes Enforcement Network, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

Introduction

This final rule (i) adds a definition of ''card club,'' in a new paragraph (8) of 31 CFR 103.11(n), as a component of the definition of ''financial institution'' for purposes of the Bank Secrecy Act rules, (ii) provides, by means of a new paragraph (7)(iii) in section 103.11(n), for treatment of card clubs generally in the same manner as casinos under the Bank Secrecy Act, (iii) renumbers paragraphs (8) and (9) of section 103.11(n) as paragraphs (9) and (10), respectively, and (iv) adds a new paragraph (11), applicable only to card clubs, to 31 CFR 103.36(b), to require retention by card clubs of records of a customer's currency transactions, and of records of all activity at card club cages or similar facilities, maintained in the ordinary course of a club's business. The changes reflect the authority contained in section 409 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325.

In December 1996, FinCEN published a notice of proposed rulemaking (the ''Notice'') in the **Federal Register** proposing the amendments to the Bank Secrecy Act regulations that are the subject of this final rule (61 FR 67260, December 20, 1996). One comment was received in response to this Notice.[1] Based on this response, the Notice is being adopted as a final rule with only minor editorial changes, and as explained below, a new effective date later than the date proposed in the Notice.

Background

The statute popularly known as the ''Bank Secrecy Act,'' Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330), appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has

[1] The comment received was from a large card club and was generally favorable to the changes proposed.

been delegated to the Director of FinCEN.

The range of financial institutions to which the Bank Secrecy Act applies is not limited to banks and other depository institutions. It also includes securities brokers and dealers, money transmitters, and the other non-bank businesses that offer customers one or more financial services.[2]

State licensed gambling casinos were generally made subject to the Bank Secrecy Act as of May 7, 1985, by regulation issued early that year. *See* 50 FR 5065 (February 6, 1985).[3] Gambling casinos authorized to do business under the Indian Gaming Regulatory Act became subject to the Bank Secrecy Act on August 1, 1996. *See* 61 FR 7054–7056 (February 23, 1996).[4]

In recognition of the importance of application of the Bank Secrecy Act to the gaming industry, section 409 of the Money Laundering Suppression Act codified the application of the Bank Secrecy Act to gaming activities by adding casinos and other gaming establishments to the list of financial institutions specified in the Bank Secrecy Act itself.[5] The statutory specification reads:

(2) financial institution means—

* * * * *

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

(i) Is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) Is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act). * * *

31 U.S.C. 5312(a)(2)(X). Treasury has previously indicated that it is in the process of rethinking the application of the Bank Secrecy Act to gaming establishments. *See* 59 FR 61660–61662 (December 1, 1994) and 61 FR 7054, 7055 (February 23, 1996). This final rule is a step in that process.[6]

Public Comment

FinCEN received one written comment on the proposed regulations. The comment, which was generally favorable, addressed the following areas: (1) footnote 11 in the preamble concerning future regulations that would extend suspicious activity reporting to non-bank financial institutions, (2) the questions for which FinCEN specifically invited comment, and (3) FinCEN's estimate of the total annual recordkeeping burden imposed by the proposed rule.

Footnote 11 in the preamble of the proposed regulations states that Treasury intends to issue regulations to require classes of non-bank financial institutions, including gaming establishments, to file reports of suspicious transactions. The commenter recommended that the future regulations include specific examples of instances when suspicious activity reports would be required. FinCEN anticipates that when it issues rules requiring casinos to file suspicious activity reports, it will provide examples that may require reporting.

The preamble to the proposed regulations specifically invited comment on (1) whether particular parts of the Bank Secrecy Act regulations for casinos should not be applied to card clubs, (2) what types of financial services other than gaming are offered by card clubs, (3) whether special rules were needed for tribal card clubs, and (4) how to examine and enforce tribal card clubs' compliance with the Bank Secrecy Act.

The commenter addressed each of the four questions. The commenter did not recommend that card clubs be exempted from any parts of the Bank Secrecy Act regulations for casinos, but it did state that the exclusion of card clubs with gross annual gaming revenue of $1 million or less was appropriate. The commenter stated that its business provided the following financial services in addition to provision of gaming facilities and services: check cashing, cash advances, credit, and safekeeping services to certain customers, and automated teller machines operated by an outside commercial institution. The commenter did not believe that special rules were needed for tribal card clubs, and suggested that compliance with the rules would be enhanced by measures that it used in its own business, such as internal auditors, a compliance officer, controller supervision, and an annual compliance audit performed by an outside expert.

The Notice estimated that the annual recordkeeping burden of the regulations would be 686 hours. The commenter stated that its estimated average time was higher (an estimated 4160 hours). FinCEN recognizes that some businesses may have annual recordkeeping burdens that are higher or lower than FinCEN's estimated annual burden because some businesses may have a volume of transactions that is greater or less than FinCEN's estimated average. Moreover, FinCEN's estimate builds on the fact that the records required to comply with the regulations generally are already prepared in the normal course of business and reflects only the additional time required to retain the records. The commenter's estimate appears, however, to reflect activities in addition to record retention that a card club may become subject as a result of being defined as a casino. FinCEN will do an inventory correction for existing paperwork requirements to reflect the additional results of including card clubs within the definition of casinos.

Explanation of Provisions

A. Overview

The final regulations expand the range of gaming establishments to which the Bank Secrecy Act applies to include card clubs. Generally card clubs become subject to the same rules as casinos, unless a specific provision of

[2] FinCEN has proposed classifying money transmitters, retail currency exchangers, check cashers, and issuers, sellers, and certain redeemers of money orders, traveler's checks, and stored value, as "money services businesses" for purposes of the Bank Secrecy Act, subject to their own suspicious activity reporting and special currency transaction reporting rules. *See,* 62 FR 27890, 62 FR 27900, and 62 FR 27909, May 21, 1997. Finalization of those rules would require the renumbering of the definitional provisions in this final rule.

[3] Casinos with gross annual gaming revenue of $1 million or less were, and continue to be, excluded from coverage.

[4] Treasury has issued four sets of rules in all relating specifically to the application of the Bank Secrecy Act to casino gaming establishments. *See,* in addition to the two rules cited in the text, 54 FR 1165–1167 (January 12, 1989), and 59 FR 61660–61662 (December 1, 1994) (modifying and putting into final effect the rule originally published at 58 FR 13538–13550 (March 12, 1993)).

[5] The 1985 action initially making casinos subject to the Bank Secrecy Act had been based on Treasury's statutory authority to designate as financial institutions (i) businesses that engage in activities "similar to" the activities of the businesses listed in the Bank Secrecy Act, as well as (ii) other businesses "whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters." *See* 31 U.S.C. 5312(a)(2)(Y) and (Z) (as renumbered by the Money Laundering Suppression Act).

[6] On August 18, 1997, a Paperwork Reduction Act Notice appeared in the **Federal Register** soliciting comments concerning a proposed Treasury Form TD F 90–22.49, Suspicious Activity Report by Casinos (SARC). Pursuant to Nevada State Regulation 6A, this form (in the version cited in the Notice) is being used, effective October 1, 1997, to file with FinCEN reports of suspicious transactions and activities that may occur by, at, or through a Nevada casino. Treasury intends to issue a notice of proposed rulemaking that will require all casinos or card clubs subject to the requirements of the Bank Secrecy Act and its implementing regulations (31 CFR Part 103) to report suspicious activity. Until a *final* rule takes effect, casinos and card clubs in jurisdictions other than Nevada are encouraged, but not yet required, to file the SARC to report suspicious activity. (Treasury issued a notice of proposed rulemaking on May 21, 1997 (62 FR 27900) that would require money transmitters and issuers, sellers, and redeemers, of money orders and traveler's checks, to report suspicious transactions involving at least $500 in funds or other assets.)

the rules in 31 CFR Part 103 applicable to casinos explicitly requires a different treatment or an additional requirement for card clubs.

B. Definition of Card Club

The definition of card club itself is added as a component of the definition of ''financial institution'' in a new paragraph 31 CFR 103.11(n)(8).[7] Under the amendment, the term includes, *inter alia*, any establishment of the type commonly referred to as a ''card club,'' ''card room,'' ''gaming club'' or ''gaming room,'' that is duly licensed or authorized to do business either under state law, under the laws of a particular political subdivision within a state, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands. Card clubs licensed by U.S. territories or possessions also fall within the definition.

The general need for and appropriateness of treatment of casinos as financial institutions for purposes of the Bank Secrecy Act have been accepted, as indicated above, since the mid-1980s. Treasury has made clear the need to prevent casinos, which both deal in cash and cash-equivalent chips and can offer a variety of other financial services to customers, from being used to avoid the effect of the Bank Secrecy Act.[8]

Although application of the Bank Secrecy Act to gaming establishments has heretofore been limited to casinos, that limitation is not a statutory one. As noted, the statutory definition of financial institution includes any establishment licensed as a ''gaming establishment,'' whether the licensing authority is a state, a municipality or other state subdivision, or one of the licensing authorities recognized by the Indian Gaming Regulatory Act. *See* 31 U.S.C. 5311(a)(2)(X) (quoted above).

Card clubs are a fast-growing segment of the gaming industry, primarily in California. Although card club operations differ, the establishments generally offer facilities for gaming by customers who bet against one another, rather than against the establishment. Most large card clubs run the games, but the clubs earn their revenue by receiving a fee from customers (for example a per table charge) rather than from, as in a classic casino, running games *and* effectively ''banking'' the games offered so that customers bet against the house.

While the scope of casinos and card club operations may have differed in the past, they no longer necessarily do so. California and some other states in which card clubs operate do not permit casino gaming (or only permit such gaming in limited forms). But, for example, customers at California card clubs wagered about $9.1 billion in 1996. Against that background, there are two primary reasons that card clubs, like other gaming establishments, require coverage under the Bank Secrecy Act.

First, many card clubs, like casinos, now offer their customers a wide range of financial services (a fact amply documented by the commenter to the Notice). As it indicated when it proposed extension of the Bank Secrecy Act to tribal casinos, the Treasury has generally sought to apply the Bank Secrecy Act to gaming establishments that provide their customers with a financial product—gaming—and as a corollary offer a broad array of financial services, such as customer deposit or credit accounts, facilities for transmitting and receiving funds transfers directly from other institutions, and check cashing and currency exchange services, that are similar to those offered by depository institutions and other financial firms. The fact that the gaming at card clubs does not directly involve the wagering of house monies in no way alters the fact that vast sums of currency and other funds pass through such establishments, or the fact that card clubs are coming to offer their customers corollary financial services to facilitate the movement of funds.

Second, card clubs are at least as vulnerable as other gaming establishments to use by money launderers and those seeking to commit tax evasion or other financial crimes, both because of their size and because those institutions lack many of the controls found at casinos. Given their growth, their prevalence in the nation's most populous state, and their potential for expansion, there is no basis for distinguishing card clubs from casinos for purposes of the Bank Secrecy Act.[9]

There is also some indication that the line between card clubs and casinos may be blurring in practice. Thus, FinCEN noted in the preamble to the final rule extending the Bank Secrecy Act to tribal casinos that:

> [A]n establishment that claimed to be a gambling ''club'' rather than a casino because it simply offered customers an opportunity to gamble with one another, but that in practice funded certain customers so that other customers were in effect gambling against ''house'' money, and that offered its customers financial services of various kinds, is arguably a casino under present law. Thus, for example, if such a ''club'' failed to file currency transactions reports or allowed a customer to deposit funds in a player bank account in the name of the customer without requiring the customer to provide identifying information, the club would arguably be operating in violation of the Bank Secrecy Act.

61 FR 7055 note 1.

Given the growth of card clubs and their potential for offering a venue for money launderers, the application of the Bank Secrecy Act to such establishments should not depend on whether games are banked or otherwise backed with house funds.[10] Similarly,

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[7] As indicated, no language in the financial institution definition is being deleted; present paragraphs 103.11(n)(8) and (n)(9) simply become paragraphs (n)(9) and (n)(10), respectively.

[8] The preamble to the final rule bringing casinos within the Bank Secrecy Act stated that

> [i]n recent years Treasury has found that an increasing number of persons are using gambling casinos for money laundering and tax evasion purposes. In a number of instances, narcotics traffickers have used gambling casinos as substitutes for other financial institutions in order to avoid the reporting and recordkeeping requirements of the Bank Secrecy Act.
>
> Inclusion of casinos in the definition of financial institution[s] in 31 CFR Part 103 was among the specific recommendations in the October 1984 report of the President's Commission on Organized Crime, ''The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering''. The problem was also the subject of hearings in 1984 before the House Judiciary Subcommittee on Crime entitled ''The Use of Casinos to Launder the Proceeds of Drug Trafficking and Organized Crime''.
>
> In order to prevent the use of casinos in this fashion, Treasury is amending the regulations in 31 CFR Part 103 to require gambling casinos to file the same types of reports [and maintain the same types of records] that it requires from financial institutions currently covered by the Bank Secrecy Act.

50 FR 5065, 5066, (February 6, 1985); *see also* 49 FR 32861, 32862 (August 17, 1984) (corresponding language in notice of proposed rulemaking).

[9] Federal and state law enforcement authorities have expressed concern for several years about card clubs as venues for criminal activity. *See, e.g.,* Asian Organized Crime, Part I, S. Rep. 102–346, 101st Cong., 1st Sess. (1991); Asian Organized Crime: the New International Criminal, S. Rep. 102–940, 101st Cong., 2nd. Sess. (1992); Office of the Attorney General of California, ''Status of Cardroom Gambling in California and the Proposed Gambling Control Act'' (Public Document, February 1995); *cf.* Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, Hearings: Asset Forfeiture Program—A Case Study of the Bicycle Club Casino, 104th Cong., 2nd. Sess. (March 19, 1996).

[10] Before the effective date of these amendments, the *receipt* of cash in excess of $10,000 by card clubs in a single transaction (or multiple related transactions) is required to be reported under section 6050I of the Internal Revenue Code. The limited cash transaction reporting rules of section 6050I (which apply to currency received by all non-financial trades or businesses) are not as extensive as the reporting rules of the Bank Secrecy Act (which apply both to receipts and payments of currency) and are not matched by recordkeeping, suspicious transaction reporting, and anti-money laundering compliance program rules authorized under the Bank Secrecy Act. As explained below in C. *Treatment of Card Clubs Under the Bank Secrecy Act,* upon the effective date of these amendments,

Continued

the fact that some card clubs operating under the terms of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq,* may be Class II rather than Class III establishments for purposes of the regulatory provisions of that legislation (so that card clubs are subject to tribal regulation rather than to regulation pursuant to state-tribal compact), does not provide a relevant distinction for Bank Secrecy Act purposes.[11] (As was the case with tribal casinos, a card club that operates on Indian lands under a view that compliance with the Indian Gaming Regulatory Act is unnecessary or inconsistent with inherent tribal rights is not for that reason exempted from the terms of the Bank Secrecy Act, to the extent that those terms otherwise apply to the card club's operations.)

Card clubs, like casinos, only become subject to the Bank Secrecy Act once they generate more than $1 million in ''gross annual gaming revenue.'' As applied to card clubs the term includes revenue derived from or generated by customer gaming activity (whether in the form of per-game or per-table fees, fees based on winnings, rentals, or otherwise) and received by an establishment.

C. Treatment of Card Clubs Under the Bank Secrecy Act

Under the final regulations, card clubs are treated under the Bank Secrecy Act in the same manner as casinos unless specific provisions of the rules in 31 CFR Part 103 explicitly require a different treatment. Thus, card clubs become subject not simply to the Bank Secrecy Act's currency transaction reporting rules but to the full set of provisions (described by the Congress as ''a comprehensive currency reporting and detailed recordkeeping system with numerous anti-money laundering safeguards'' [12]) to which casinos in the United States are subject.

Treatment of card clubs on a par with casinos generally imposes on such clubs the Bank Secrecy Act rules that apply to casinos. Thus, each card club is required to file with the Department of the Treasury a report of each receipt or disbursement of more than $10,000 in currency in its operations during any gaming day; aggregation of multiple currency transactions is required in a number of situations. *See* 31 CFR 103.22(a)(2). The requirement applies to all receipts or disbursements of currency in connection with gaming activities at the card club, including, but not limited to, transfers of currency for chip purchases or redemptions, exchanges of bills of one denomination for bills of another denomination, exchanges of one currency for another currency, transfers to or from player accounts or deposit facilities, payments or advances on credit, wagers of currency or payments of currency to settle wagers, and transfers intended for conversion to other forms of negotiable instruments or for electronic funds transfer or transmittal out of, or as a result of such transfer or transmittal into, the card club.[13]

It is particularly important to understand that the requirements apply regardless of where the transfers occur at the card club. Thus no distinction is to be made between, for example, transactions at a cage, cashier, or other central facility, and chip purchases or redemptions from club runners or from dealers or other operators of specific games.

Each card club also is required, like a casino, to maintain, and to retain, certain records relating to its operation, including records identifying account holders (*see* 31 CFR 103.36(a)), records showing transactions for or through each customer's account (*see, generally,* 31 CFR 103.36(b)), and records of transactions involving persons, accounts or places outside the United States. *See* 31 CFR 103.36(b)(5). Records of transactions of more than $3,000 involving checks or other monetary instruments and records that are prepared or used by a card club to monitor a customer's gaming activity are also among the types of records that are required to be maintained. *See* 31 CFR 103.36 (b)(8) and (b)(9). (A specific record retention requirement, applicable only to card clubs, is discussed below.) Finally, card clubs are required to institute training and internal control programs to assure and monitor compliance with the Bank Secrecy Act. *See* 31 CFR 103.36(b)(10) and 103.54(a).

Card clubs within the scope of the final rule in any event remain subject to the filing requirements of section 6050I of the Internal Revenue Code, with respect to their gaming and financial services operations, until the effective date of these amendments. *See* section 6050I (a) and (c) of the Internal Revenue Code, 26 U.S.C. 6050I (a) and (c), and Treas. Reg. 1.6050I–1(d)(2). Section 6050I of the Code will continue to apply to any non-gaming and non-financial services operations (for example restaurant service), at card clubs that become subject to the Bank Secrecy Act.

D. Additions to Record Retention Requirements

The final rule contains one new record retention requirement, applicable only to card clubs. A new paragraph (11) of 31 CFR 103.36(b) requires card clubs to retain, for five years, all currency transaction logs, multiple currency transaction logs, and cage control logs that the clubs maintain in their business operations. This is required to assure an adequate basis for the audit of compliance or review of compliance by card clubs with the Bank Secrecy Act; the restriction of the requirement to card clubs reflects the absence for such clubs of a state regulatory scheme under whose terms similar records would already be required to be maintained.

E. Effective Date

The amendments made by the final rule will become effective on August 1, 1998 to allow card clubs a reasonable amount of time to train their staff members and to establish programs designed to comply with the requirements of the Bank Secrecy Act.

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the

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section 6050I will continue to apply only to certain transactions at card clubs.

[11] The National Indian Gaming Commission has taken the position that games banked by players, rather than the house, are nonetheless ''banked card games'' whose operation is required to occur in an authorized Class III facility. Thus it appears that some percentage of card clubs or rooms on tribal lands will be, or will be operated within, Class III facilities that generally became subject to the Bank Secrecy Act on August 1, 1996. *See* National Indian Gaming Commission Bulletin 95–1 (April 10, 1995). FinCEN understands that certain Asian card games (whose rules employ a betting formula in which a player does not offer to take on all competitors), may be permitted to be offered in Class II facilities for purposes of the Indian Gaming Regulatory Act.

[12] *See* H.R. Rep. No. 652, 103rd Cong., 2nd Sess. 193 (1994).

[13] Legislation enacted in California adds gaming clubs to the list of financial institutions in that state that are required to report transactions in currency of more than $10,000 to the California Department of Justice. See Assembly Bill 3183 (signed September 28, 1996), amending Cal. Penal Code 14161. This reporting requirement became effective on January 1, 1997. More recent legislation in California provides for new state licensing and regulation of the card room gambling industry in that state. This new legislation will require card room owner licensees to report and keep records of transactions, as determined by the Division of Gambling Control of the California Department of Justice, involving cash or credit, including filing with the Division reports similar to those required by 31 U.S.C. 5313 and 31 CFR 103.22. See Senate Bill 8, Gambling Control Act (signed October 11, 1997) amending Cal. Bus. & Prof. Code 19800 et seq. and Cal. Penal Code 186.9 and 337j. Most of these new requirements will become effective on January 1, 1998. It is anticipated that the California and Bank Secrecy Act currency transaction reporting requirements will be coordinated (as is done in other situations in which Bank Secrecy Act and state reporting rules overlap) to reduce regulatory burden and costs of compliance.

Paperwork Reduction Act (44 U.S.C. 3507(d)) under control number 1506–0063. 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 control number assigned by the Office of Management and Budget.

The collection of information in this final regulation is in 31 CFR 103.36(b)(11). This information is required to comply with the Bank Secrecy Act. This information will be used to assure an adequate basis for the audit of compliance or review of compliance by card clubs with the Bank Secrecy Act; the requirement for this information reflects the absence for such clubs of a state regulatory scheme under whose terms similar records would already be required to be maintained. The collection of information is mandatory.

The likely recordkeepers are all card clubs conducting transactions in currency at the cage or at the gaming tables with their customers and creating records of such transactions in the ordinary course of business. FinCEN understands that one of the largest card clubs in California conducted a study in 1997 of currency transaction entries in excess of $2,500 recorded in its currency transaction logs which indicated that approximately 3,800 individual customer transactions were recorded during a representative month. The card club is responsible for approximately 20 percent of the IRS Form 8362 filings submitted by all card clubs in California. By extrapolating these figures to the entire card club industry, FinCEN estimates that approximately 215,000 currency transactions in excess of $2,500, occurring at the cage or at the gaming tables, would be recorded annually.

Frequency: Each time a currency transaction is recorded at the cage or at the gaming tables.

Estimated Number of Such Currency Transactions: 215,000.

Estimate of Total Annual Burden on Card Clubs: Recordkeeping burden estimate = approximately 686 hours per year for record retention.

Estimate of Total Annual Cost to Card Clubs for Hour Burdens: Based on $20 per hour, the total cost of compliance with the final recordkeeping rule is estimated to be approximately $14,000.

Estimate of Total Other Burden Hours to Respondents: Approximately 19,000 hours per year.

Estimate of Total Other Annual Costs to Respondents: Based on $20 per hour, the total other annual costs to comply with other casino recordkeeping, reporting and compliance program requirements is estimated to be approximately $380,000.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Treasury Department, Office of Information and Regulatory Affairs, Washington, D.C., 20503.

Special Analyses

It has been determined that this final rule (i) is not subject to the ''budgetary impact statement'' requirement of section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and (ii) is not a significant regulatory action as defined in Executive Order 12866. It is not anticipated that this final rule will have an annual effect on the economy of $100 million or more. Nor will it affect adversely in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities. The final rule is neither inconsistent with, nor does it interfere with, actions taken or planned by other agencies. Finally, it raises no novel legal or policy issues.

Regulatory Flexibility Act

FinCEN certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Under the Internal Revenue Code, card clubs are already subject to requirements regarding the receipt of cash from customers similar to those in this regulation. Moreover, to the extent this regulation imposes recordkeeping requirements, those requirements generally concern information already found in routine business records.

Compliance With 5 U.S.C. 801

Prior to the date of publication of this document in the **Federal Register**, FinCEN will have submitted to each House of the Congress and to the Comptroller General the information required to be submitted or made available with respect to this final rule by the provisions of 5 U.S.C. 801 (a)(1)(A) and (a)(1)(B).

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks, Banking, Currency, Foreign Banking, Gambling, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendments to the Regulations

Accordingly, 31 CFR Part 103 is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.11 is amended by redesignating present paragraphs (n)(8) and (n)(9) as paragraphs (n)(9) and (n)(10), respectively, and by adding new paragraphs (n)(7)(iii) and (n)(8) to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(n) * * *

(7) * * *

(iii) Any reference in this part, other than in this paragraph (n)(7) and in paragraph (n)(8) of this section, to a casino shall also include a reference to a card club, unless the provision in question contains specific language varying its application to card clubs or excluding card clubs from its application.

(8)(i) *Card club.* A card club, gaming club, card room, gaming room, or similar gaming establishment that is duly licensed or authorized to do business as such in the United States, whether under the laws of a State, of a Territory or Insular Possession of the United States, or of a political subdivision of any of the foregoing, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands (including, without limitation, an establishment operating on the assumption or under the view that no such authorization is required for operation on Indian lands for an establishment of such type), and that has gross annual gaming revenue in excess of $1,000,000. The term includes the principal headquarters and every domestic branch or place of business of the establishment. The term ''casino,'' as used in this Part shall include a reference to ''card club'' to the extent provided in paragraph (n)(7)(iii) of this section.

(ii) For purposes of this paragraph (n)(8), *gross annual gaming revenue* means the gross revenue derived from or generated by customer gaming activity (whether in the form of per-game or per-table fees, however computed, rentals, or otherwise) and received by an establishment, during either the establishment's previous business year or its current business year. A card club that is a financial institution for purposes of this Part solely because its gross annual revenue exceeds

$1,000,000 during its current business year, shall not be considered a financial institution for purposes of this Part prior to the time in its current business year when its gross annual revenue exceeds $1,000,000.

3. Section 103.36 is amended by adding a new paragraph (b)(11) to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(11) In the case of card clubs only, records of all currency transactions by customers, including without limitation, records in the form of currency transaction logs and multiple currency transaction logs, and records of all activity at cages or similar facilities, including, without limitation, cage control logs.

* * * * *

Dated: January 7, 1998.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 98–743 Filed 1–12–98; 8:45 am]

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1151, 1153, and 1155

Bylaws

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has adopted amendments to its General Statement of Policy, Statement of Organization and Procedures and Authorities and Delegations. The amendments were adopted to update and improve the Board's operations and to streamline the Board's regulations. The amendments are being published so that all affected persons will be fully informed about procedures governing the Access Board.

DATES: *Effective date:* January 13, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Stewart, Access Board, 1331 F Street, NW, Suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 ext 52 (voice); (202) 272–5449 (TTY). Electronic mail address: stewart@access-board.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Rehabilitation Act of 1973, 29 U.S.C. 792, as amended, the Access Board originally adopted 36 CFR Part 1151 General Statement of Policy on September 12, 1978, the Statement of Organization and Procedures codified at 36 CFR Part 1155 on September 16, 1975; and 36 CFR Part 1153 Authorities and Delegations on July 12, 1983. Together, the three parts provide guidance on the overall policies of the Board; the duties and responsibilities of the Board, its officers and committees; procedures for election of Board officers and for Board and committee meetings; and supervisory obligations. The most recent amendments adopted by the Board at its May 1997 meeting combine the three documents into a single part entitled Bylaws which is codified at 36 CFR 1151. Parts 1153 and 1155 have been removed. Language which was superseded, outdated or unnecessary has been removed. The number of Board meetings has been changed from six Board meetings to five Board meetings and one scheduled Board event. It is the intention of the Board that this event be held out of the Washington D.C. area in order to encourage input and comment from the general public. Membership in the subject matter committees has been expanded and membership in the Executive Committee was changed to provide for the additional membership of new subject matter committee chairs and at-large members. Other miscellaneous, procedural amendments include the setting of the agenda for Board meetings, participation in Board and committee meetings by conference telephone and the establishment of committee charters. The amendments were adopted by the Board to update and improve the Board's organization and operating procedures. The deletion of language and the combining of the Board's bylaws into one part have greatly streamlined the Board's existing regulations.

List of Subjects

36 CFR Part 1151

Authority delegations (Government agencies), Organizations and functions (Government agencies).

36 CFR Part 1153

Authority delegations (Government agencies), Organizations and functions (Government agencies).

36 CFR Part 1155

Organizations and functions (Government agencies).

Authorized by vote of the Access Board on May 14, 1997.

Patrick D. Cannon,

Chairperson, Architectural and Transportation Barriers Compliance Board.

Editorial Note: This document was received at the Office of the Federal Register on January 8, 1998.

Pursuant to 29 U.S.C. 792, as amended, and for the reasons set forth in the preamble, chapter XI of title 36 of the Code of Federal Regulations is amended as follows:

1. Part 1151 is revised to read as follows:

PART 1151—BYLAWS

Sec.
1151.1 Establishment.
1151.2 Authority.
1151.3 Officers.
1151.4 Delegations.
1151.5 Board meetings.
1151.6 Committees.
1151.7 Amendments to the bylaws.

Authority: 29 U.S.C. 792.

§ 1151.1 Establishment.

The Architectural and Transportation Barriers Compliance Board was established pursuant to section 502 of the Rehabilitation Act of 1973, as amended. The agency is also known and often referred to as the ''Access Board'' or simply the ''Board.''

§ 1151.2 Authority.

The Board shall have the authority and responsibilities as set forth in section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792); section 504 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12204); and section 225(e) of the Telecommunications Act of 1996 (47 U.S.C. 255(e)).

§ 1151.3 Officers.

(a) *Board.* The Board is the governing body of the agency.

(b) *Chair, Vice-Chair.* The head of the agency is the Chair of the Board and, in his or her absence or disqualification, the Vice-Chair of the Board. As head of the agency, the Chair represents the Board whenever an applicable Federal statute or regulation imposes a duty or grants a right or authority to the head of the agency and has the authority to act in all matters relating to the operation of the Board. The Chair may delegate any such duties and responsibilities by written delegation of authority. The Chair supervises the Executive Director and evaluates his or her performance and approves performance evaluations of employees who report directly to the Executive Director. The authority to supervise, evaluate and approve performance evaluations of the