



# Federal Register

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**Monday,  
December 20, 2010**

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**Part XIV**

**Department of the  
Treasury**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF THE TREASURY (TREAS)**

**DEPARTMENT OF THE TREASURY**

**31 CFR Subtitle A, Chs. I and II**

**Semiannual Agenda and Fiscal Year 2011 Regulatory Plan**

**AGENCY:** Department of the Treasury.

**ACTION:** Semiannual regulatory agenda and annual regulatory plan.

**SUMMARY:** This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 “Regulatory Planning and Review”, which require the publication by the Department of a semiannual agenda of regulations. EO 12866 also requires the publication by the Department of a regulatory plan for fiscal year 2011.

**FOR FURTHER INFORMATION CONTACT:** The Agency Contact identified in the item relating to that regulation.

**SUPPLEMENTARY INFORMATION:** The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules

currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet is the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury’s printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant

economic impact on a substantial number of small entities; and

(2) Any rule that has been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including Treasury’s regulatory plan.

The semiannual agenda and The Regulatory Plan of the Department of the Treasury conform to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

**Dated: September 13, 2010.**  
**Richard G. Lepley,**  
*Deputy Assistant General Counsel for General Law and Regulation.*

**Financial Crimes Enforcement Network—Final Rule Stage**

| Sequence Number | Title  | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 437             | Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access | 1506–AB07                    |

**Comptroller of the Currency—Completed Actions**

| Sequence Number | Title                                 | Regulation Identifier Number |
|-----------------|---------------------------------------|------------------------------|
| 438             | S.A.F.E. Mortgage Licensing Act ..... | 1557–AD23                    |

**Internal Revenue Service—Proposed Rule Stage**

| Sequence Number | Title  | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 439             | User Fees Relating to Enrollment, Registered Tax Return Preparers, and Continuing Education Programs ..... | 1545–BJ65                    |

**Internal Revenue Service—Final Rule Stage**

| Sequence Number | Title                         | Regulation Identifier Number |
|-----------------|-------------------------------|------------------------------|
| 440             | Indoor Tanning Services ..... | 1545–BJ40                    |

## TREAS

## Internal Revenue Service—Completed Actions

| Sequence Number | Title  | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 441             | Regulations Governing Practice Before the IRS—Tax Return Preparers ..... | 1545–BJ17                    |
| 442             | Indoor Tanning Services .....  | 1545–BJ41                    |

## Department of the Treasury (TREAS)

## Final Rule Stage

## Financial Crimes Enforcement Network (FINCEN)

### 437. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DEFINITIONS AND OTHER REGULATIONS RELATING TO PREPAID ACCESS

**Legal Authority:** 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5314; 31 USC 5316 to 5332

**Abstract:** The Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury (Treasury), is proposing to revise the Bank Secrecy Act (BSA) regulations applicable to Money Services Businesses to include stored value or prepaid access. In this proposed rulemaking, we are reviewing the stored value/prepaid access regulatory framework with a focus on developing appropriate BSA regulatory oversight without impeding continued development of the industry, as well as improving the ability of FinCEN, other regulators and law enforcement to safeguard the U.S. financial system from the abuses of terrorist financing, money laundering, and other financial crime.

The proposed changes are intended to address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last 10 years and their increasing use as an accepted payment method. If these gaps are not addressed, there is increased potential for the use of prepaid access as a means for furthering money laundering, terrorist financing, and other illicit transactions through the financial system. This would significantly undermine many of the efforts previously taken by government and industry to safeguard the financial system through the application of BSA

requirements to other areas of the financial sector.

While seeking to address vulnerabilities existing currently in the prepaid industry, FinCEN also intends for this proposed rule to provide the necessary flexibility to address new developments in technology, markets, and consumer behavior. This is important, in order to avoid creating artificial limits on a mechanism that can be an avenue to meet the financial services needs of the unbanked and the underbanked.

This rule proposes to subject certain providers of prepaid access to a comprehensive BSA regime. To make BSA reports and records valuable and meaningful, the proposed changes impose obligations on the party within any given prepaid access transaction chain with predominant oversight and control, as well as others in a unique position to provide meaningful information to regulators and law enforcement. More specifically, the proposed changes include the following: (1) Renaming “stored value” as “prepaid access” and defining that term; (2) deleting the terms “issuer and redeemer” of stored value; (3) imposing registration, suspicious activity reporting and customer information recordkeeping requirements on providers of prepaid access, and new transactional recordkeeping requirements on both providers and sellers of prepaid access; and (4) exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements.

FinCEN recognizes that the Credit CARD Act of 2009 mandated the increased regulation of prepaid access,

as well as the consideration of the issue of international transport, and we will address these mandates, either through regulatory text or solicitation of comment in this rulemaking. In the course of our regulatory research into the operation of the prepaid industry, we have encountered a number of distinct issues, such as the appropriate obligations of payment networks and financial transparency at the borders, and we anticipate future rulemakings in these areas. We will seek to phase in any additional requirements, however, as the most prudent course of action for an evolving segment of the money services business (MSB) community.

#### Timetable:

| Action                  | Date     | FR Cite     |
|-------------------------|----------|-------------|
| NPRM                    | 06/28/10 | 75 FR 36589 |
| NPRM Comment Period End | 07/28/10 |             |
| Extend Comment Period   | 08/28/10 | 75 FR 41788 |
| Final Action            | 04/00/11 |             |

#### Regulatory Flexibility Analysis

**Required:** Yes

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**RIN:** 1506–AB07

**BILLING CODE** 4810–33–S

**Department of the Treasury (TREAS)**  
**Comptroller of the Currency (OCC)**
**Completed Actions****438. S.A.F.E. MORTGAGE LICENSING ACT**

**Legal Authority:** 12 USC 1 et seq; 12 USC 29; 12 USC 93a; 12 USC 371; 12 USC 1701j-3; 12 USC 1828(o); 12 USC 3331 et seq

**Abstract:** These regulations implement the Federal registration requirement imposed by the S.A.F.E. Mortgage Licensing Act, title V of the Housing and Economic Recovery Act of 2008

(Pub. L. 110-289, 122 Stat. 2654 (2008)) with respect to national banks and their operating subsidiaries. They are being issued by the OCC, FRB, FDIC, OTS, NCUA, and Farm Credit Administration.

**Completed:**

| Reason                 | Date     | FR Cite     |
|------------------------|----------|-------------|
| Final Action           | 07/28/10 | 75 FR 44656 |
| Final Action Effective | 10/01/10 |             |
| Correction             | 08/23/10 | 75 FR 51623 |

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 1557-AD23**BILLING CODE** 4830-01-S
**Department of the Treasury (TREAS)**  
**Internal Revenue Service (IRS)**
**Proposed Rule Stage****439. • USER FEES RELATING TO ENROLLMENT, REGISTERED TAX RETURN PREPARERS, AND CONTINUING EDUCATION PROGRAMS**

**Legal Authority:** 31 USC 9701

**Abstract:** These proposed regulations will update and separate the user fees regarding enrolled agents and enrolled retirement plan agents. These

regulations will also impose user fees to take the competency examination to become a registered tax return preparer and to provide continuing education programs.

**Timetable:**

| Action | Date     | FR Cite |
|--------|----------|---------|
| NPRM   | 12/00/10 |         |

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 1545-BJ65
**Department of the Treasury (TREAS)**  
**Internal Revenue Service (IRS)**
**Final Rule Stage****440. • INDOOR TANNING SERVICES**

**Legal Authority:** 26 USC 7805

**Abstract:** Proposed regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

**Timetable:**

| Action                  | Date     | FR Cite     |
|-------------------------|----------|-------------|
| NPRM                    | 06/15/10 | 75 FR 33740 |
| NPRM Comment Period End | 09/13/10 |             |
| Final Action            | 12/00/10 |             |

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 1545-BJ40
**Department of the Treasury (TREAS)**  
**Internal Revenue Service (IRS)**
**Completed Actions****441. REGULATIONS GOVERNING PRACTICE BEFORE THE IRS—TAX RETURN PREPARERS**

**Legal Authority:** 31 USC 330

**Abstract:** These proposed regulations modify the general standards of practice for tax return preparers under Circular 230.

**Completed:**

| Reason    | Date     | FR Cite |
|-----------|----------|---------|
| Withdrawn | 08/10/10 |         |

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Matthew S. Cooper

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**RIN:** 1545-BJ17**442. • INDOOR TANNING SERVICES**

**Legal Authority:** 26 USC 7805

**Abstract:** Temporary regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

**Timetable:**

| Action                | Date     | FR Cite     |
|-----------------------|----------|-------------|
| Temporary Regulations | 06/15/10 | 75 FR 33683 |

**Regulatory Flexibility Analysis****Required:** Yes

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TREAS—IRS

Completed Actions

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**RIN:** 1545-BJ41

[FR Doc. 2010-30452 Filed 12-17-10; 8:45  
am]

**BILLING CODE** 4830-01-S