

returning to the United States, regardless of whether the individual is fully vaccinated, because such travel is currently defined as essential travel.

Consistent with the October 21, 2021 **Federal Register** notice and the October 29, 2021 web posting, DHS is publishing this notice of the lifting of the non-essential travel restrictions for certain individuals as described above.

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

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## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### 31 CFR Part 1010

RIN 1506–AB53

#### Bank Secrecy Act Regulations— Reports of Foreign Financial Accounts Civil Penalties

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Final rule.

**SUMMARY:** FinCEN is amending the Bank Secrecy Act civil penalty regulations relating to the requirements for reporting foreign financial accounts and for reporting transactions with foreign financial agencies. The amendments remove civil penalty language, which was made obsolete with the enactment of the American Jobs Creation Act of 2004. The American Jobs Creation Act of 2004 revised the manner for computing the penalty, including providing a greater maximum penalty for willful violations than was previously authorized.

**DATES:** *Effective Date:* The final rule is effective December 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at <https://fincen.gov/contact>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purposes of the Bank Secrecy Act (BSA), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5336, include, among other things, requiring certain reports or records that are highly useful in criminal, tax, or regulatory investigations. The regulations implementing the BSA appear at 31 CFR chapter X. The Secretary's authority to

administer the BSA has been delegated to the Director of FinCEN.<sup>1</sup>

Pursuant to 31 U.S.C. 5314, the Secretary is authorized to require any “resident or citizen of the United States or a person in, and doing business in, the United States, to . . . keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency.” The regulations implementing 31 U.S.C. 5314 appear at 31 CFR 1010.350, 1010.360, and 1010.420. Section 1010.350 sets forth the requirements for filing a Foreign Bank Account Report (FBAR), which generally require each U.S. person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country to report such relationship for each year in which such relationship exists. Section 1010.420 outlines the recordkeeping requirements associated with foreign financial accounts required to be reported under Section 1010.350. Section 1010.360, commonly referred to as the report of foreign financial agency transactions, provides that FinCEN may promulgate regulations requiring specified financial institutions to file reports of certain transactions with designated foreign financial agencies.

##### II. Civil Monetary Penalty

Section 5321 of Title 31 of the U.S. Code describes civil monetary penalties for violations of the BSA. In October 1986, Congress amended 31 U.S.C. 5321 to add a provision—31 U.S.C. 5321(a)(5)—authorizing a civil monetary penalty for willful violations of section 5314. (Pub. L. 99–570, section 1357(c), October 26, 1986) (“the Anti-Drug Abuse Act of 1986” or the “1986 Act”). The terms of the 1986 amendment were incorporated into the BSA implementing regulations at 31 CFR 1010.820(g).<sup>2</sup>

The American Jobs Creation Act of 2004 amended 31 U.S.C. 5321(a)(5). The amendments revised the manner in which the penalty is calculated, including an increase to the maximum amount that could be assessed for willful violations of section 5314.

##### III. Section by Section Analysis

Section 821 of the American Jobs Creation Act of 2004 is self-executing, and the penalty provisions apply to violations occurring after the date of its enactment. For those reasons, the provisions in 31 CFR 1010.820(g) are obsolete and superseded by statute.

FinCEN is therefore rescinding 31 CFR 1010.820(g). The remaining paragraphs (h) and (i) in § 1010.820 are redesignated as paragraphs (g) and (h).

#### IV. Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. The final rule rescinds civil penalty regulations at 31 CFR 1010.820(g)(1) and (2) because they have been rendered obsolete with the 2004 amendments to 31 U.S.C. 5321(a)(5). The agency has therefore determined that publishing a notice of proposed rulemaking and providing opportunity for public comment is unnecessary. This amendment to the regulations merely conforms the regulations to the current statute.

Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. FinCEN finds that there is good cause for shortened notice since 31 CFR 1010.820(g) is obsolete and the revisions made by this final rule are non-substantive and technical. This final rule takes effect on December 23, 2021.

#### V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. As noted above, FinCEN has determined that it is unnecessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

#### VI. Executive Order 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. FinCEN

<sup>1</sup> See Treasury Order 180–01 (Jan. 14, 2020).

<sup>2</sup> 52 FR 11436, April 8, 1987.

has determined that Executive Orders 13563 and 12866 do not apply to this final rulemaking.

## VII. Paperwork Reduction Act (PRA) Notices

There is no collection of information requirement in this final rule.

## VIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, 12 U.S.C. 1532, Public Law 104–4 (March 22, 1995) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, Section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that no portion of this final rule will result in expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, this final rule is not subject to section 202 of the Unfunded Mandates Act.

## List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Banks, Banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

## Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR part 1010 is amended as follows:

## PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 is revised to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

### § 1010.820 [Amended]

■ 2. Section 1010.820 is amended as follows:

- a. Remove paragraph (g); and
- b. Redesignate paragraphs (h) and (i) as paragraphs (g) and (h).

**Himamauli Das,**

*Acting Director, Financial Crimes Enforcement Network.*

[FR Doc. 2021–27623 Filed 12–22–21; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 387

[Docket No. 20–CRB–0008–CA (2020–2024)]

### Adjustment of Cable Statutory License Royalty Rates

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final determination.

**SUMMARY:** The Copyright Royalty Judges published for comment a proposed settlement governing royalty rates and terms for the retransmission of over-the-air television and radio broadcast stations by cable television systems to their subscribers. Having received no comments, the Judges adopt the existing rates and terms as proposed by the settlement.

**DATES:** The rates are applicable to the period beginning January 1, 2020, and ending December 31, 2024.

**ADDRESSES:** *Docket:* For access to the docket to read background documents, go to eCRB at <https://app.crb.gov> and perform a case search for docket 20–CRB–0008–CA.

**FOR FURTHER INFORMATION CONTACT:** Anita Blaine, (202) 707–7658, [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** On January 26, 2021, the Copyright Royalty Judges (Judges) received a Joint Notice of Settlement of Participating Parties<sup>1</sup> informing the Judges that they have agreed not to seek a quinquennial adjustment in the existing Section 111 royalty rates or gross receipts limitations pursuant to 17 U.S.C. 804(b)(1)(A)–(B) for the 2020–2024<sup>2</sup> period. As a result, the Participating Parties requested that the Judges terminate this proceeding without making any changes in (1) the royalty rates currently set forth in 17 U.S.C. 111(d)(1)(B) and 37 CFR 256.2(c)–(d);<sup>3</sup> and (2) the gross receipts

<sup>1</sup> The Participating Parties are American Society of Composers, Authors and Publishers, Broadcast Music, Inc., Canadian Claimants Group (by Canadian Broadcasting Corporation), Devotional Claimants (Crystal Cathedral Ministries, *et al.*), Global Music Rights, LLC, Joint Sports Claimants, Motion Picture Association, Commercial Television Claimants (through the National Association of Broadcasters), NPR Claimants (through National Public Radio, Inc.), NCTA–The Internet & Television Association, Public Television Claimants (through Public Broadcasting Service), and SESAC Performing Rights, LLC.

<sup>2</sup> The period of years for the rates has been misstated as 2020–2025 in filings in this docket. The five-year period starting in 2020 ends in 2024, not 2025. The Judges have adjusted the docket number to reflect the correct span.

<sup>3</sup> The Judges assume that the Participating Parties' reference to 37 CFR 256.2(c) & (d), which was a

limitations set forth in 17 U.S.C. 111(d)(1)(E)–(F). Joint Notice at 2. Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the retransmission of over-the-air television and radio broadcast stations to their subscribers. 17 U.S.C. 111(c). In exchange for the license, cable operators submit to the Copyright Office semiannually royalty payments and statements of account detailing their retransmissions. 17 U.S.C. 111(d)(1). The Copyright Office deposits the royalties into the United States Treasury for later distribution to copyright owners of the broadcast programming that the cable systems retransmit. 17 U.S.C. 111(d)(2).

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d)(1). Royalty rates are based upon a cable system's gross receipts from subscribers who receive retransmitted broadcast signals. For rate calculation purposes, cable systems are divided into three tiers (small, medium, and large) based on their gross receipts. 17 U.S.C. 111(d)(1)(B) through (F). Both the applicable rates and the tiers are subject to adjustment. 17 U.S.C. 801(b)(2).

Every five years persons with a significant interest in the royalty rates may file petitions to initiate a proceeding to adjust the rates. 17 U.S.C. 804(a)–(b). No person with a significant interest filed a petition to initiate a proceeding in 2020. Therefore, the Judges initiated a rate adjustment proceeding by publishing a notice and request for petitions to participate in the **Federal Register**. 85 FR 34467 (June 4, 2020). The Judges accepted the petitions to participate of each of the Participating Parties and commenced a Voluntary Negotiation Period (VNP). Notice of Participants, Commencement of Voluntary Negotiation Period, and Scheduling Order (Oct. 20, 2020).<sup>4</sup> In response to that Notice and Order, on January 26, 2021, the Participating Parties submitted a Joint Notice of Settlement of Participating Parties

Copyright Office regulation relating to the Judges' predecessor, was intended to refer to paragraphs (c)–(d) of 37 CFR 387.2, which the Judges adopted at the conclusion of the last cable rate proceeding. See 81 FR 62812 (Sept. 13, 2016) and 81 FR 24523–24 (Apr. 26, 2016).

<sup>4</sup> The Judges also received a petition to participate from Circle God Network Inc. (through David Powell), which the Judges concluded failed to state why it believed it had a significant interest in the proceeding. The Judges subsequently rejected Mr. Powell's petition to participate, Order Rejecting David Powell's Petition to Participate and Permitting Filing of an Amended Petition (Oct. 20, 2020), and later dismissed Mr. Powell from the proceeding. Order Dismissing David Powell (Nov. 5, 2020).