

The table below cross references major issues with the regulation. This module focuses on Part 1010 – General Provisions, and Part 1020 – Rules for Banks:

Bank Secrecy Act Compliance Summary – 31 CFR Chapter X

ISSUE	REGULATION
General Definitions	§1010.100
Filing of Reports	§1010.306
Filing Obligations for Reports of Currency Transactions	§1010.311
Identification Required	§1010.312
Aggregation	§1010.313
Structured Transactions	§1010.314
Records to be Made and Retained by Financial Institutions	§1010.410
Purchases of Bank Checks/Drafts, Cashier's Checks, Money Orders & Traveler's Checks	§1010.415
Nature of Records and Retention Period	§1010.430
Information Sharing Between Government Agencies and Financial Institutions	§1010.520
Voluntary Information Sharing Among Financial Institutions	§1010.540
Enforcement	§1010.810
Civil Penalty	§1010.820
Criminal Penalty	§1010.840
Definitions	§1020.100
Customer Identification Program	§1020.220
Exempt Persons	§1020.315
Suspicious Activity Reports	§1020.320
Records to be made and Retained by Banks	§1020.410

Note: From time to time FinCEN issues Guidance, Advisories, Administrative Rulings, etc. that provide further guidance on specific aspects of the regulations. They normally provide more detailed analysis of the requirements and give examples on how to comply.

§1010.306 A Currency Transaction Report (CTR) – must be filed for each transaction that qualifies. The report must be filed within fifteen calendar days following the on which the reportable transaction occurred if a paper filing is sent to the IRS in Detroit, Michigan. However, paper filings may not be submitted after June 30, 2012.

Effective July 1, 2012, CTRs MUST be filed electronically through the BSA E-Filing System. FinCEN Form 104 (CTR “legacy report”) may be filed electronically until March 31, 2013. After that date the “new” CTR must be filed. Electronic submissions must be filed within 25 days, however only until March 31, 2012. After that date they must be filed within 15 days.

The report includes such information as:

- Identity of the individual(s) who conducted the transaction
- Person(s) on whose behalf the transaction was conducted
- Account numbers (if any) affected by the transaction
- Type and amount of transaction

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- Bank information

The CTR may also be used to amend a prior report.

A record of each CTR filed by a bank must be kept for five years from the date filed.

§1020.320

Banks must file a Suspicious Activity Report (SAR) in accordance with the regulations and the SAR form instructions when they detect a “known or suspected violation” of federal law or a suspicious financial transaction. The SAR is filed with FinCEN. A bank must file the SAR in the circumstances summarized in the table below.

File SAR whenever....

The bank detects a known or suspected violation of federal criminal law and has a substantial basis to believe that one of its directors, officers, employees, agents, or other bank-affiliated parties committed or aided in the commission of the violation (regardless of the amount)

OR

Involving or aggregating \$5,000 or more (before reimbursement or recovery), and the bank has a substantial basis for identifying a possible suspect or group of suspects

The bank detects any financial transaction conducted or attempted, by, at, or through the bank involving or aggregating \$5,000 or more, if the bank knows, suspects, or has reason to suspect that the transaction involves funds derived from illegal activity or is for the purpose of hiding or disguising funds from illegal activities

OR

Is designed to evade any requirements under the Bank Secrecy Act

OR

Has no business or apparent lawful purpose or is not the sort of transaction in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

If a currency transaction exceeds \$10,000 and is suspicious, the bank will file both a CTR (reporting the currency transaction) and a SAR (reporting the suspicious criminal aspect of the transaction). If a currency transaction equals or is below \$10,000 but is suspicious, the bank will file only a SAR.

A bank must file the SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If not suspect was identified on the date of detection of the incident triggering the filing, the bank may delay filing the SAR for an additional 30 calendar days to identify a suspect. In no case is reporting to be delayed more than 60 calendar days after the date of initial detection of a reportable transaction.

In situations involving violations requiring immediate attention, the bank is to immediately notify the appropriate law enforcement agency and bank regulatory agency in addition to filing the SAR.

Banks are encouraged to provide a copy of the SAR to state and local law enforcement agencies when appropriate.

Banks need not file the SAR for a robbery or burglary committed or attempted, that is reported to appropriate law enforcement authorities.

Banks need not file the SAR for lost, missing, counterfeit, or stolen securities if reports are filed pursuant to the reporting requirement of 17 CFR 240.17f-1 (Securities and Exchange Commission regulation).

Retention of Records of A bank must maintain a record of any SAR filed and the originals or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR. All supporting documentation must be made available to FinCEN and any appropriate law enforcement agencies or bank supervisory agencies upon request and should be identified, maintained, and treated as if it had been filed with the SAR.

Notification to Board of Directors of The management of the bank must promptly notify its board of directors, or a designed committee thereof, of any SAR filed.

Confidentiality SARs are confidential, and banks must be vigilant in ensuring that SAR confidentiality is maintained. No bank, or director, officer, employee, or agent of the bank (including bank counsel) can disclose to anyone a SAR or any information that would reveal the existence of a SAR. Subpoenas or other requests to disclose a SAR or any information that would reveal the existence of a SAR must be declined. The bank must notify FinCEN and the bank's regulatory agency of any such subpoena/request.

Certain very limited, specific situations that do not violate the confidentiality restrictions are spelled out in the regulation. Banks will want to consider risk-based measures to ensure confidentiality, including employee training and appropriate security measures.

The unauthorized disclosure of SARs is a violation of federal law. Both civil and criminal penalties may be imposed for SAR disclosure violations.

Source: 2012 Montana Bankers Association BSA/AML Conference; copyright MBA