



ANTI-MONEY LAUNDERING MEASURES

FIL-136-2002
December 11, 2002

TO: CHIEF EXECUTIVE OFFICER (also of interest to BSA Compliance Officer)

SUBJECT: Final Rule Implementing Sections of the USA PATRIOT Act That Address Correspondent Accounts for Foreign Shell Banks

Summary: *The U.S. Department of the Treasury has issued a final rule to implement Sections 313(a) and 319(b) of the USA PATRIOT Act. Under the new rule, financial institutions are required to take reasonable steps to ensure that they are not providing banking services directly or indirectly to foreign shell banks. The new rule also imposes new recordkeeping requirements. These measures are intended to prevent money laundering and terrorist financing through correspondent accounts maintained by U.S. financial institutions on behalf of foreign banks.*

The U.S. Department of the Treasury issued the attached final rule on September 26, 2002, to implement Sections 313(a) and 319(b) of the USA PATRIOT Act. The rule adds sections 103.177 and 103.185 to the Bank Secrecy Act regulations. These sections are intended to prevent money laundering and terrorist financing through correspondent accounts maintained by U.S. financial institutions on behalf of foreign banks. Financial institutions are required to take reasonable steps to ensure that they are not providing banking services directly or indirectly to foreign shell banks. The new rule also imposes new recordkeeping requirements. The final rule took effect on October 28, 2002, and applies to correspondent accounts established after that date.

Under the new rule, financial institutions:

- Are prohibited from providing correspondent accounts to foreign shell banks.
- Are required to obtain a certification from foreign banks for which they maintain a correspondent account stating the foreign bank is not a shell bank and that it will not permit a foreign shell bank to have access to the U.S. account.
- Must maintain records identifying the owner of the foreign bank for which they may maintain a correspondent account and its agent in the United States designated to accept service of legal process.
- Must terminate correspondent accounts of foreign banks that fail to comply with or fail to contest a lawful request of the Secretary of the Treasury or the Attorney General of the United States, after being notified by the Secretary or Attorney General.

The new rule applies to correspondent accounts established after October 28, 2002. For correspondent accounts in existence on October 28, 2002, a new certification is not required, provided the request for certification was made prior to October 28, 2002, using the Treasury Interim Guidance, published in the Federal Register on November 27, 2001; and the certification is obtained on or before December 26, 2002. Although financial institutions are not required to use the certification form in Appendix A or re-certification form in Appendix B to comply with the regulation, use of the certification forms provides a safe harbor from liability for failing to comply with the regulation.

The FDIC will amend its examination procedures to address the new requirements. For further information, you may contact the FDIC's Special Activities Section, Division of Supervision and Consumer Protection, at (202) 898-3981. Questions may be submitted electronically to alert@fdic.gov.

This Financial Institution Letter supersedes [FIL-110-2001](#), issued December 28, 2001.

For your reference, FDIC Financial Institution Letters may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2002/index.html. To learn how to automatically receive FDIC Financial Institution Letters through e-mail, please visit <http://www.fdic.gov/news/announcements/index.html>.

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Director

Attachment: September 26, 2002, Federal Register, pages 60562-60579
[HTML](#) or [PDF](#) (320KB File - [PDF Help](#) or [Hard Copy](#))

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