

## § 1010.210

bank (as defined in §1010.100(d)) that is not subject to regulation by a Federal functional regulator (as defined in §1010.100(r)) is exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs.

(3) Subject to the provisions of paragraphs (c) and (d) of this section, a person described in §1010.100(t)(7) is exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs.

(c) *Limitation on exemption.* The exemptions described in paragraph (b) of this section shall not apply to any financial institution that is otherwise required to establish an anti-money laundering program by this chapter.

(d) *Compliance obligations of deferred financial institutions.* Nothing in this section shall be deemed to relieve an exempt financial institution from its responsibility to comply with any other applicable requirement of law or regulation, including title 31 of the U.S.C. and this chapter.

[75 FR 65812, Oct. 26, 2010, as amended at 77 FR 8157, Feb. 14, 2012]

### § 1010.210 Anti-money laundering programs.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to subpart B of its chapter X part for any additional anti-money laundering program requirements.

### § 1010.220 Customer identification program requirements.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to subpart B of its chapter X part for any additional customer identification program requirements.

### § 1010.230 Beneficial ownership requirements for legal entity customers.

(a) *In general.* Covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers and to include such procedures in their anti-money laundering compliance program required under 31 U.S.C. 5318(h) and its implementing regulations.

## 31 CFR Ch. X (7–1–16 Edition)

(b) *Identification and verification.* With respect to legal entity customers, the covered financial institution's customer due diligence procedures shall enable the institution to:

(1) Identify the beneficial owner(s) of each legal entity customer at the time a new account is opened, unless the customer is otherwise excluded pursuant to paragraph (e) of this section or the account is exempted pursuant to paragraph (h) of this section. A covered financial institution may accomplish this either by obtaining a certification in the form of appendix A of this section from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies, to the best of the individual's knowledge, the accuracy of the information; and

(2) Verify the identity of each beneficial owner identified to the covered financial institution, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals under §1020.220(a)(2) of this chapter (for banks); §1023.220(a)(2) of this chapter (for brokers or dealers in securities); §1024.220(a)(2) of this chapter (for mutual funds); or §1026.220(a)(2) of this chapter (for futures commission merchants or introducing brokers in commodities); provided, that in the case of documentary verification, the financial institution may use photocopies or other reproductions of the documents listed in paragraph (a)(2)(ii)(A)(I) of §1020.220 of this chapter (for banks); §1023.220 of this chapter (for brokers or dealers in securities); §1024.220 of this chapter (for mutual funds); or §1026.220 of this chapter (for futures commission merchants or introducing brokers in commodities). A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information.

(c) *Account.* For purposes of this section, *account* has the meaning set forth

in §1020.100(a) of this chapter (for banks); §1023.100(a) of this chapter (for brokers or dealers in securities); §1024.100(a) of this chapter (for mutual funds); and §1026.100(a) of this chapter (for futures commission merchants or introducing brokers in commodities).

(d) *Beneficial owner*. For purposes of this section, *beneficial owner* means each of the following:

(1) Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer; and

(2) A single individual with significant responsibility to control, manage, or direct a legal entity customer, including:

(i) An executive officer or senior manager (*e.g.*, a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or

(ii) Any other individual who regularly performs similar functions.

(3) If a trust owns directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, 25 percent or more of the equity interests of a legal entity customer, the beneficial owner for purposes of paragraph (d)(1) of this section shall mean the trustee. If an entity listed in paragraph (e)(2) of this section owns directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, 25 percent or more of the equity interests of a legal entity customer, no individual need be identified for purposes of paragraph (d)(1) of this section with respect to that entity's interests.

NOTE TO PARAGRAPH (d): The number of individuals that satisfy the definition of "beneficial owner," and therefore must be identified and verified pursuant to this section, may vary. Under paragraph (d)(1) of this section, depending on the factual circumstances, up to four individuals may need to be identified. Under paragraph (d)(2) of this section, only one individual must be identified. It is possible that in some circumstances the same person or persons might be identified pursuant to paragraphs (d)(1) and (2) of this section. A covered financial institution may also identify additional individuals as part of its customer due dili-

gence if it deems appropriate on the basis of risk.

(e) *Legal entity customer*. For the purposes of this section:

(1) *Legal entity customer* means a corporation, limited liability company, or other entity that is created by the filing of a public document with a Secretary of State or similar office, a general partnership, and any similar entity formed under the laws of a foreign jurisdiction that opens an account.

(2) *Legal entity customer* does not include:

(i) A financial institution regulated by a Federal functional regulator or a bank regulated by a State bank regulator;

(ii) A person described in §1020.315(b)(2) through (5) of this chapter;

(iii) An issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 or that is required to file reports under section 15(d) of that Act;

(iv) An investment company, as defined in section 3 of the Investment Company Act of 1940, that is registered with the Securities and Exchange Commission under that Act;

(v) An investment adviser, as defined in section 202(a)(11) of the Investment Advisers Act of 1940, that is registered with the Securities and Exchange Commission under that Act;

(vi) An exchange or clearing agency, as defined in section 3 of the Securities Exchange Act of 1934, that is registered under section 6 or 17A of that Act;

(vii) Any other entity registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934;

(viii) A registered entity, commodity pool operator, commodity trading advisor, retail foreign exchange dealer, swap dealer, or major swap participant, each as defined in section 1a of the Commodity Exchange Act, that is registered with the Commodity Futures Trading Commission;

(ix) A public accounting firm registered under section 102 of the Sarbanes-Oxley Act;

(x) A bank holding company, as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) or savings and loan holding company, as

## § 1010.230

## 31 CFR Ch. X (7–1–16 Edition)

defined in section 10(n) of the Home Owners' Loan Act (12 U.S.C 1467a(n));

(xi) A pooled investment vehicle that is operated or advised by a financial institution excluded under paragraph (e)(2) of this section;

(xii) An insurance company that is regulated by a State;

(xiii) A financial market utility designated by the Financial Stability Oversight Council under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010;

(xiv) A foreign financial institution established in a jurisdiction where the regulator of such institution maintains beneficial ownership information regarding such institution;

(xv) A non-U.S. governmental department, agency or political subdivision that engages only in governmental rather than commercial activities; and

(xvi) Any legal entity only to the extent that it opens a private banking account subject to §1010.620 of this chapter.

(3) The following legal entity customers are subject only to the control prong of the beneficial ownership requirement:

(i) A pooled investment vehicle that is operated or advised by a financial institution not excluded under paragraph (e)(2) of this section; and

(ii) Any legal entity that is established as a nonprofit corporation or similar entity and has filed its organizational documents with the appropriate State authority as necessary.

(f) *Covered financial institution.* For the purposes of this section, *covered financial institution* has the meaning set forth in §1010.605(e)(1) of this chapter.

(g) *New account.* For the purposes of this section, *new account* means each account opened at a covered financial institution by a legal entity customer on or after the applicability date.

(h) *Exemptions.* (1) Covered financial institutions are exempt from the requirements to identify and verify the identity of the beneficial owner(s) set forth in paragraphs (a) and (b)(1) and (2) of this section only to the extent the financial institution opens an account for a legal entity customer that is:

(i) At the point-of-sale to provide credit products, including commercial

private label credit cards, solely for the purchase of retail goods and/or services at these retailers, up to a limit of \$50,000;

(ii) To finance the purchase of postage and for which payments are remitted directly by the financial institution to the provider of the postage products;

(iii) To finance insurance premiums and for which payments are remitted directly by the financial institution to the insurance provider or broker;

(iv) To finance the purchase or leasing of equipment and for which payments are remitted directly by the financial institution to the vendor or lessor of this equipment.

(2) *Limitations on Exemptions.* (i) The exemptions identified in paragraphs (h)(1)(ii) through (iv) of this section do not apply to transaction accounts through which a legal entity customer can make payments to, or receive payments from, third parties.

(ii) If there is the possibility of a cash refund on the account activity identified in paragraphs (h)(1)(ii) through (iv) of this section, then beneficial ownership of the legal entity customer must be identified and verified by the financial institution as required by this section, either at the time of initial remittance, or at the time such refund occurs.

(i) *Recordkeeping.* A covered financial institution must establish procedures for making and maintaining a record of all information obtained under the procedures implementing paragraph (b) of this section.

(1) *Required records.* At a minimum the record must include:

(i) For identification, any identifying information obtained by the covered financial institution pursuant to paragraph (b) of this section, including without limitation the certification (if obtained); and

(ii) For verification, a description of any document relied on (noting the type, any identification number, place of issuance and, if any, date of issuance and expiration), of any non-documentary methods and the results of any measures undertaken, and of the resolution of each substantive discrepancy.

(2) *Retention of records.* A covered financial institution must retain the

**Financial Crimes Enforcement Network, Treasury**

**§ 1010.230**

records made under paragraph (i)(1)(i) of this section for five years after the date the account is closed, and the records made under paragraph (i)(1)(ii) of this section for five years after the record is made.

(j) *Reliance on another financial institution.* A covered financial institution may rely on the performance by another financial institution (including an affiliate) of the requirements of this section with respect to any legal entity customer of the covered financial institution that is opening, or has opened, an account or has established a similar business relationship with the other financial institution to provide or en-

gage in services, dealings, or other financial transactions, provided that:

(1) Such reliance is reasonable under the circumstances;

(2) The other financial institution is subject to a rule implementing 31 U.S.C. 5318(h) and is regulated by a Federal functional regulator; and

(3) The other financial institution enters into a contract requiring it to certify annually to the covered financial institution that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) the specified requirements of the covered financial institution's procedures to comply with the requirements of this section.

**APPENDIX A to § 1010.230 -- CERTIFICATION REGARDING  
BENEFICIAL OWNERS OF LEGAL ENTITY CUSTOMERS**

**I. GENERAL INSTRUCTIONS**

**What is this form?**

To help the government fight financial crime, Federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

**Who has to complete this form?**

This form must be completed by the person opening a new account on behalf of a legal entity with any of the following U.S. financial institutions: (i) a bank or credit union; (ii) a broker or dealer in securities; (iii) a mutual fund; (iv) a futures commission merchant; or (v) an introducing broker in commodities.

For the purposes of this form, a **legal entity** includes a corporation, limited liability company, or other entity that is created by a filing of a public document with a Secretary of State or similar office, a general partnership, and any similar business entity formed in the United States or a foreign country. **Legal entity** does not include sole proprietorships, unincorporated associations, or natural persons opening accounts on their own behalf.

**What information do I have to provide?**

This form requires you to provide the name, address, date of birth and Social Security number (or passport number or other similar information, in the case of foreign persons) for the following individuals (i.e., the **beneficial owners**):

- (i) Each individual, if any, who owns, directly or indirectly, 25 percent or more of the equity interests of the legal entity customer (e.g., each natural person that owns 25 percent or more of the shares of a corporation); **and**
- (ii) An individual with significant responsibility for managing the legal entity customer (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer).

The number of individuals that satisfy this definition of “beneficial owner” may vary. Under section (i), depending on the factual circumstances, up to four individuals (but as

few as zero) may need to be identified. Regardless of the number of individuals identified under section (i), you must provide the identifying information of one individual under section (ii). It is possible that in some circumstances the same individual might be identified under both sections (e.g., the President of Acme, Inc. who also holds a 30% equity interest). Thus, a completed form will contain the identifying information of at least one individual (under section (ii)), and up to five individuals (i.e., one individual under section (ii) and four 25 percent equity holders under section (i)).

The financial institution may also ask to see a copy of a driver’s license or other identifying document for each beneficial owner listed on this form.

**II. CERTIFICATION OF BENEFICIAL OWNER(S)**

**Persons opening an account on behalf of a legal entity must provide the following information:**

*a. Name and Title of Natural Person Opening Account:*

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*b. Name and Address of Legal Entity for Which the Account is Being Opened:*

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*c. The following information for each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above:*

Name	Date of Birth	Address (Residential or Business Street	<i>For U.S. Persons:</i> Social Security	<i>For Foreign Persons:</i> Passport Number and
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§ 1010.230

31 CFR Ch. X (7-1-16 Edition)

		Address	Number	Country of Issuance, or other similar identification number <sup>1</sup>

(If no individual meets this definition, please write "Not Applicable.")

d. The following information for *one* individual with significant responsibility for managing the legal entity listed above, such as:

- An executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or
- Any other individual who regularly performs similar functions.

(If appropriate, an individual listed under section (c) above may also be listed in this section (d)).

Name/Title	Date of Birth	Address (Residential or Business Street Address)	For U.S. Persons: Social Security Number	For Foreign Persons: Passport Number and Country of Issuance, or other similar identification number <sup>1</sup>

I, \_\_\_\_\_ (name of natural person opening account), hereby certify, to the best of my knowledge, that the information provided above is complete and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<sup>1</sup> In lieu of a passport number, foreign persons may also provide an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Legal Entity Identifier \_\_\_\_\_ (Optional)

[81 FR 29451, May 11, 2016]

EFFECTIVE DATE NOTE: At 81 FR 29451, May 11, 2016, § 1010.230 was added, effective July 11, 2016.

### Subpart C—Reports Required To Be Made

#### § 1010.300 General.

Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to its chapter X part for any additional reporting requirements. Unless otherwise indicated, the reporting requirements contained in this subpart C apply to all financial institutions.

#### § 1010.301 Determination by the Secretary.

The Secretary hereby determines that the reports required by this chapter have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

#### § 1010.305 [Reserved]

#### § 1010.306 Filing of reports.

(a)(1) A report required by § 1010.311 or § 1021.311, shall be filed by the financial institution within 15 days following the day on which the reportable transaction occurred.

(2) A copy of each report filed pursuant to §§ 1010.311, 1010.313, 1020.315, 1021.311 and 1021.313, shall be retained by the financial institution for a period of five years from the date of the report.

(3) All reports required to be filed by §§ 1010.311, 1010.313, 1020.315, 1021.311 and 1021.313, shall be filed with the Commissioner of Internal Revenue, unless otherwise specified.

(b)(1) A report required by § 1010.340(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise specified by the Commissioner of Customs and Border Protection.

(2) A report required by § 1010.340(b) shall be filed within 15 days after receipt of the currency or other monetary instruments.

(3) All reports required by § 1010.340 shall be filed with the Customs officer in charge at any port of entry or departure, or as otherwise specified by the

Commissioner of Customs and Border Protection. Reports required by § 1010.340(a) for currency or other monetary instruments not physically accompanying a person entering or departing from the United States, may be filed by mail on or before the date of entry, departure, mailing or shipping. All reports required by § 1010.340(b) may also be filed by mail. Reports filed by mail shall be addressed to the Commissioner of Customs and Border Protection, Attention: Currency Transportation Reports, Washington, DC 20229.

(c) Reports required to be filed by § 1010.350 shall be filed with the Commissioner of Internal Revenue on or before June 30 of each calendar year with respect to foreign financial accounts exceeding \$10,000 maintained during the previous calendar year.

(d) Reports required by § 1010.311, § 1010.313, § 1010.340, § 1010.350, § 1020.315, § 1021.311 or § 1021.313 of this chapter shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.

(e) Forms to be used in making the reports required by § 1010.311, § 1010.313, § 1010.350, § 1020.315, § 1021.311 or § 1021.313 of this chapter may be obtained from the Internal Revenue Service. Forms to be used in making the reports required by § 1010.340 may be obtained from the U.S. Customs and Border Protection.

#### § 1010.310 Reports of transactions in currency.

Sections 1010.310 through 1010.314 set forth the rules for the reporting by financial institutions of transactions in currency. Unless otherwise indicated, the transactions in currency reporting requirements in §§ 1010.310 through 1010.314 apply to all financial institutions. Each financial institution should refer to subpart C of its chapter X part for any additional transactions in currency reporting requirements.

#### § 1010.311 Filing obligations for reports of transactions in currency.

Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000, except