

- Credit unions may designate an eligible Phase II member² for CTR exemption after the member has conducted five or more reportable cash transactions within a year, and either:
 - a. The member has maintained a transaction account for two months;
- OR**
- b. The credit union has conducted a risk-based analysis of the member's eligibility for Phase II exemption to form a reasonable belief that the member has a legitimate business purpose for conducting frequent large currency transactions. Factors the credit union may consider in order to form a reasonable belief include, but are not limited to:
 - Whether the credit union had a past relationship with the member;
 - Certain specific characteristics of the member's business model that may be pertinent;
 - The types of business in which the customer engages; and
 - Where the business is operating.
- Credit unions must still file an initial DOEP for Phase II exempt members, but will no longer be required to file a DOEP biennially (every two years) after the initial DOEP for Phase II Exempt members has been filed. Credit unions are still required to perform an annual review to determine whether the member meets the requirements for continued eligibility for Phase II exemption.
 - Credit unions will no longer be required to record and report a change of control in a designated non-listed or payroll customer.

Credit unions should continue to use the current DOEP form (FinCEN Form 110) until further notice. However, any references to biennial renewals on the form or the instructions should be disregarded.

²A Phase II exemption is defined as either a "non-listed business" or a "payroll member". A "non-listed business" is a business whose stock is not listed on a public stock exchange and is not engaged in the specified ineligible activities listed in 31 CFR 103.22(d)(6)(viii). A "payroll member" is defined solely with respect to cash withdrawals for payroll purposes from existing exemptible accounts.

FinCEN's press release and the final rule may be accessed at
http://www.fincen.gov/news_room/nr/html/20081204.html.

If you have any questions, please contact your regional director or state supervisory authority.

Sincerely,

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Michael E. Fryzel
Chairman