

**Alert | Financial Regulatory & Compliance**



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## **FinCEN Ruling Clarifies Currency Transaction Report (CTR) Filing Obligations of Financial Institutions**

On Feb. 10, 2020, the U.S. Department of the Treasury, Financial Crimes Enforcement Network (FinCEN) published [administrative ruling FIN-2020-R001](#), to clarify requirements of financial institutions reporting on currency transactions involving sole proprietorships and legal entities operating under a “doing business as” (DBA) name (“FinCEN Ruling”). The FinCEN Ruling, which becomes effective April 6, 2020 (Sept. 1, 2020, for BSA E-Filing batch filers), replaces and rescinds two previous FinCEN rulings: FIN-2006-R003 and FIN-2008-R001, which were based on the now obsolete FinCEN Form 104. The FinCEN Ruling addresses reporting obligations when filing using the current CTR FinCEN Form 112.

### **Filing of CTR FinCEN Form 112 for a Sole Proprietorship**

In the FinCEN Ruling, FinCEN defines a sole proprietorship as “a business in which one person, operating in his or her own personal capacity, owns all of the business’s assets and is responsible for all of the business’s liabilities.” Consistent with the definition of “person” under the Bank Secrecy Act’s implementing regulations (31 C.F.R. § 1010.100(mm)), FinCEN makes clear that “a sole proprietorship is not a separate legal person from its individual owner.” Therefore, when preparing a CTR FinCEN Form 112 on transactions involving a sole proprietorship, a financial institution should heed the following FinCEN instructions:

- Complete a single Part I “Person Involved in Transaction” section with the individual owner’s name in Items 4 through 6, gender in Item 7, and date of birth in Item 17.<sup>1</sup>
- If the individual owner is doing business in his or her own name, ensure that the rest of Part I is completed so it reflects the individual owner’s information.
- If the individual owner is operating under a DBA name, ensure such name appears in Item 8 “Alternate name,” and that the rest of Part I (other than Items 4-6, 7 and 17 identifying the individual owner) is completed with reference to the DBA name.<sup>2</sup>
- If the individual owner operates under multiple DBAs, complete a separate Part I section for each different DBA involved in the transactions.
- Ensure that the amount and account number(s) entered in Item 21 “Cash in amount...” or Item 22 “Cash out amount...” is the amount and account number(s) associated with the specific location corresponding to the reported transaction.

### Filing of CTR FinCEN Form 112 for a Legal Entity

In contrast to a sole proprietorship, a legal entity such as a partnership, incorporated business or limited liability company is a separate legal person. Accordingly, when preparing a CTR on a legal entity, a financial institution should heed the following FinCEN instructions:

- Prepare a Part I section with the home office/headquarters information (including the address, telephone number and identification number) of the legal entity.
- When multiple entity locations are involved in an aggregated CTR, prepare a separate Part I section for each location involved. Each additional Part I section should include the entity’s legal name in Item 4, and alternate name, if any, in Item 8, and each additional Part I section must include the location’s address along with all other location or legal entity information applicable to that location.
- Ensure the amount and account number(s) entered in Item 21 “Cash in amount...” or Item 22 “Cash out amount...” reflects the amount and account number(s) associated with the specific location. The initial Part I section on the entity home office/headquarters must show the total amount and all account numbers involved in Item 21 or 22.
- If there are multiple DBA names involved in the reported transaction, leave Item 8 “Alternate name” blank in the legal entity home office Part I section.
- When the entity home office address is the same as the transaction location, only prepare a home office Part I section.

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<sup>1</sup> In states with community property laws that allow a husband and wife to operate an unincorporated business as a sole proprietorship, the sole proprietorship’s proprietor, for purposes of CTR reporting, will be the spouse whose social security number is attached to the sole proprietorship.

<sup>2</sup> If there are multiple alternate names involved in the transactions, additional Part Is are required to record the additional alternate names.

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