BILLING C

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

Issuance of a Geographic Targeting Order Imposing Additional Recordkeeping and Reporting Requirements on Certain Money Services Businesses Along the Southwest Border

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Order.

SUMMARY: FinCEN is issuing notice of a Geographic Targeting Order, requiring certain money services businesses along the southwest border of the United States to report and retain records of transactions in currency of more than $200 but not more than $10,000, and to verify the identity of persons presenting such transactions.

DATES: This action is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: FinCEN's Regulatory Support Section by submitting an inquiry at www.fincen.gov/contact.

SUPPLEMENTARY INFORMATION:

I.   **BACKGROUND**

If the Secretary of the Treasury (Secretary) finds, upon his own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of the Bank Secrecy Act (BSA)[1] or to prevent evasions thereof, the Secretary may

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[1] The Bank Secrecy Act, as amended, is codified at 12 U.S.C. 1829b, 1951-1960 and 31 U.S.C. 5311-5314, 5316-5336 and includes other authorities reflected in notes thereto. Regulations implementing the BSA appear at 31 CFR chapter X. The Secretary of the Treasury's authority to administer the BSA has been delegated to the Director of FinCEN.

issue a Geographic Targeting Order (GTO) requiring any domestic financial institution or group of domestic financial institutions, or any domestic nonfinancial trade or business or group of domestic nonfinancial trades or businesses, in a geographic area to obtain such information as the Secretary may describe in such GTO concerning any transaction in which such financial institution or nonfinancial trade or business is involved in for the payment, receipt, or transfer of funds (as the Secretary may describe in such GTO), and concerning any other person participating in such transaction. For any such transaction, the Secretary may require the financial institution or nonfinancial trade or business to maintain a record and/or file a report in the manner and to the extent specified. The maximum effective period for a GTO is 180 days unless renewed.[2] The authority of the Secretary to issue a GTO has been delegated to the Director of FinCEN (Director).[3]

The Director finds that reasonable grounds exist for concluding that the additional recordkeeping and reporting requirements set forth in the GTO contained in this document (the "Order") are necessary to carry out the purposes of the BSA or to prevent evasions thereof. This action is being taken in furtherance of Treasury's efforts to combat illicit finance by drug cartels and other illicit actors along the southwest border of United States. The Order does not alter any existing BSA obligation of a Covered Business (as defined in the Order), except as otherwise noted in the Order itself. Thus, for example, a Covered Business must continue to file Currency Transaction Reports (CTRs) for transactions in currency above $10,000 and Suspicious Activity Reports (SARs) where appropriate and in accordance with the BSA and applicable regulations. Although the dollar thresholds for filing SARs in the SAR regulation applicable to Covered Businesses remains the same (as low as $2,000),[4] FinCEN encourages the voluntary filing of SARs where appropriate to report transactions conducted to evade the $200 reporting threshold imposed by the Order.

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[2] 31 U.S.C. 5326; *see also* 31 CFR 1010.370.
[3] Treasury Order 180-01 (Jan. 14, 2020).
[4] 31 CFR 1022.320 (SAR rule for money services businesses).

II.   GEOGRAPHIC TARGETING ORDER

A.   *Businesses and Transactions Covered by This Order*

1.   For purposes of this Order, the "Covered Business" means a money services business, as defined in 31 CFR 1010.100(ff), located in the Covered Geographic Area.

2.   For purposes of this Order, a "Covered Transaction" means each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to the Covered Business which involves a transaction in currency, of more than $200 but not more than $10,000.

3.   For purposes of this Order, a "Covered Geographic Area" means the areas denoted by the ZIP codes below corresponding to the following seven counties in California and Texas:

   a.   Imperial County, California: 92231, 92249, 92281, and 92283;

   b.   San Diego County, California: 91910, 92101, 92113, 92117, 92126, 92154, and 92173;

   c.   Cameron County, Texas: 78520 and 78521;

   d.   El Paso County, Texas: 79901, 79902, 79903, 79905, 79907, and 79935;

   e.   Hidalgo County, Texas: 78503, 78557, 78572, 78577, and 78596;

   f.   Maverick County, Texas: 78852; and

   g.   Webb County, Texas: 78040, 78041, 78043, 78045, and 78046.

4.   All terms used but not otherwise defined herein shall have the same meaning set forth in part 1010 of chapter X of subtitle B of title 31 of the Code of Federal Regulations.

B.   *Reports Required to be Filed by the Covered Business*

5.   Except as otherwise set forth in this Order, if the Covered Business is involved in a Covered Transaction, then the Covered Business shall report the Covered Transaction to FinCEN on a Currency Transaction Report within 15 days following the day on which the Covered Transaction occurred. In the case of the U.S. Postal Service, the obligation contained in the preceding sentence shall not apply to payments or transfers made solely in connection with the purchase of postage or philatelic products.

Note: When submitting the report, the Covered Business may receive a warning that the transaction is below $10,000. The Covered Business shall ignore the warning and continue with the submission.

6.   Each report filed pursuant to this Order must be: (a) completed in accordance with the terms of this Order and the Currency Transaction Report instructions (when those terms and those instructions conflict, the terms of this Order prevail); and (b) e-filed though the BSA E-Filing System.[5]

7.   Before concluding a Covered Transaction, the Covered Business must comply with the identification requirements set forth at 31 CFR 1010.312, including the requirement that the specific identifying information (*e.g.,* the account number of the credit card, the driver's license number) used in verifying the identity of the customer shall be recorded on the Currency Transaction Report, and the mere notation of "known customer" or "bank signature card on file" on the report is prohibited. For purposes of this requirement, the Covered Business need not identify employees of armored car services.

8.   The Covered Business is not required to file a report otherwise required under this Order on a Covered Transaction between the Covered Business and a commercial bank.

9.   Part IV of the Currency Transaction Report shall contain the following information in Field 45: "MSB0325GTO".

C.   *Order Period*

The terms of this Order are effective beginning [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] and ending on [INSERT DATE 179 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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[5] To electronically file a Currency Transaction Report, a Covered Business will need a BSA E-Filing User account. To create a BSA E-Filing User account, please visit https://bsaefiling.fincen.treas.gov/Enroll_Now.html. For more information on e-filing, please visit https://bsaefiling.fincen.treas.gov/AboutBsa.html.

D.   *Retention of Records*

The Covered Business must: (a) retain all reports filed to comply with this Order and any other records relating to compliance with this Order for a period of five years from the last day that this Order is effective (including any renewals of this Order); (b) store all such records in a manner accessible within a reasonable period of time; and (c) make such records available to FinCEN, or any other appropriate law enforcement or regulatory agency, upon request, in accordance with applicable law.

E.   *No Effect on Other Provision of the BSA or Its Implementing Regulations*

Nothing in this Order otherwise modifies or affects any provision of the BSA or the regulations implementing the BSA to the extent not expressly stated herein.

F.   *Confidentiality*

This Order is being publicly issued, and its terms are not confidential.

G.   *Compliance*

The Covered Business must supervise, and is responsible for, compliance by each of its officers, directors, employees, and agents with the terms of this Order. The Covered Business must transmit this Order to each of its agents located in the Covered Geographic Area. The Covered Business must also transmit this Order to its Chief Executive Officer or other similarly acting manager.

H.   *Penalties for Noncompliance*

The Covered Business, and any of its officers, directors, employees, and agents, may be liable, without limitation, for civil or criminal penalties for violating any of the terms of this Order.

I.   *Validity of Order*

Any judicial determination that any provision of this Order is invalid shall not affect the validity of any other provision of this Order, and each other provision shall thereafter remain in

full force and effect. A copy of this Order carries the full force and effect of an original signed Order.

J.   *Paperwork Reduction Act*

The collection of information subject to the Paperwork Reduction Act contained in this Order has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 1506-0056. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

K.   *Questions*

All questions about the Order should be directed to the FinCEN at https://www.fincen.gov/contact.

(Authority: 31 U.S.C. 5326)

Andrea M. Gacki,
Director,
Financial Crimes Enforcement Network.
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