Department of the Treasury
Financial Crimes Enforcement Network

Ruling

FIN-2009-R003
Issued: November 3, 2009
Subject: Customer Identification Program Rule – Address Confidentiality Programs

I am responding to your letter dated January 16, 2009, to the Financial Crimes Enforcement Network (FinCEN), in which you seek guidance on customer identification (CIP) requirements as they relate to customers who are issued a post office box address as part of their participation in the Washington ACP, an address confidentiality program (ACP).[1]

In the situation you have described, Washington participants who use the ACP are having difficulty establishing accounts or changing their address to the post office box that has been assigned to them by the Washington ACP. The Washington ACP is administered by the secretary of state, which maintains a post office box through which program participants receive mail. [2] Under Washington law RCW 40.24.060, a program participant may request use of address designated by the secretary of state as his or her address.[3]

The rules implementing the Bank Secrecy Act require a financial institution to implement a CIP that includes, at a minimum, risk-based policies and procedures that enable the financial institution to form a reasonable belief that it knows the true identity of its customers.[4] The rules also require that a financial institution obtain from an individual customer a residential or business street address.[5] If the individual customer does not have a residential or

[1] ACPs are offered by 31 States; these programs provide a substitute address for victims of domestic violence, sexual assault and stalking and help a participant keep his/her physical address confidential. Substitute addresses are accepted by state and local agencies. See, e.g., Washington Secretary of State Additional Information About ACP https://www.sos.wa.gov/office/ (last visited Oct. 13, 2009).
[2] See, e.g., Oklahoma Secretary of the State Address Confidentiality Program (last visited Oct. 13, 2009). For example, in the State of Oklahoma ("State"), the State issues the same post office box number to all participants in its ACP. Under the ACP, mail received at the substitute address is forwarded by first-class mail to the customer's actual address by the State and the secretary of state serves as the customer's agent for service of process and for receipt of mail.
[3] See, e.g., Minn. Stat. §5B.05 (a) and (b) (2008).
[4] See 31 C.F.R. §§ 103.121 – 103.123 and 103.131.
[5] See 31 C.F.R. § 103.121(b)(2)(i)(3)(i), §103.122(b)(2)(i)(A)(3)(i), §103.123(b)(2)(i)(A)(3)(i) and §103.131(b)(2)(i)(A)(3)(i). See also Customer Identification Programs, 68 Fed. Reg. 25090 (May 9, 2003) (Treasury determined that law enforcement should be able to contact an individual customer at a physical location, rather than solely through the mail).

business street address, then the rules permit the individual customer to provide a "residential or business street address of next of kin or of *another contact individual*."[6]

A financial institution would not be in compliance with the rules if it accepts the Washington's ACP post office box address to fulfill CIP requirements. However, FinCEN understands the need to protect victim anonymity. Under the terms of 31 U.S.C. § 5318(a)(5) and 31 CFR § 103.55, FinCEN has the authority to provide exceptive relief from the requirements of 31 CFR part 103. Such exceptions may be conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that it is expressly stated in the order of authorization.[7] Moreover, exceptions may be revoked at FinCEN'sdiscretion.[8]

Accordingly, in an effort to support the Washington ACP requirements, as well as similar requirements that may arise in other states that have established an ACP, under 31 U.S.C. § 5318(a)(5) and 31 C.F.R. § 103.55(a), FinCEN authorizes the following exception to the requirement that a financial institution obtain a customer's residential or business street address: a customer who participates in a state-created ACP shall be treated as not having a residential or business street address and a secretary of state, or other state entity serving as a designated agent of the customer consistent with the terms of the ACP, will act as *another contact individual* for the purpose of complying with FinCEN's rules. Therefore, a financial institution should collect the street address of the ACP sponsoring agency for purposes of meeting its CIP address requirement.

We have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes FinCEN from taking other action should circumstances change, or if any of the information you have provided proves inaccurate or incomplete. We reserve the right, after redacting your name and address to publish this letter as guidance in accordance with our regulations. Please inform us within fourteen (14) days from the date of this letter of any other information that you believe should be redacted from this letter and the legal basis for redaction.

If you have questions regarding this letter, please contact FinCEN's regulatory helpline at (800) 949-2732.

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Regulatory Policy and Programs Division

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[6] See 31 C.F.R. §103.121(b)(2)(i)(3)(ii), §103.122(b)(2)(i)(A)(3)(ii), §103.123(b)(2)(i)(A)(3)(ii) and§103.131(b)(2)(i)(A)(3)(ii) (Emphasis added).

[7] 31 CFR § 103.55(a).

[8] *Id*

The Secretary of State's Office is the Washington ACP's 'sponsoring agency'. The street address is:
LEGISLATIVE BUILDING
416 SID SNYDER AVE SW
OLYMPIA, WA 98501