

are independently suspicious—and are otherwise required to be reported under existing FinCEN regulations. In those cases, the OFAC blocking report would not satisfy a financial institution's suspicious activity report filing obligation.

Further, nothing in this interpretation is intended to preclude a financial institution from filing a suspicious activity report to disclose additional information concerning the OFAC match,<sup>8</sup> nor does it preclude a financial institution from filing a suspicious activity report if the financial institution has reason to believe that terrorism or drug trafficking is taking place, even though there is no OFAC match. Finally, this interpretation does not apply to blocking reports filed to report transactions and accounts involving persons owned by, or who are nationals of, countries subject to OFAC-administered sanctions programs. Such transactions should be reported on suspicious activity reports under the suspicious activity reporting rules if, and only if, the activity itself appears to be suspicious under the criteria established by the suspicious activity reporting rules.

[69 FR 74439, Dec. 14, 2004, as amended at 69 FR 76847, Dec. 23, 2004]

## PART 123 [RESERVED]

## PART 128—REPORTING OF INTERNATIONAL CAPITAL AND FOREIGN-CURRENCY TRANSACTIONS AND POSITIONS

### Subpart A—General Information

- Sec.  
128.1 General reporting requirements.  
128.2 Manner of reporting.  
128.3 Use of information reported.  
128.4 Penalties.  
128.5 Recordkeeping requirements.

### Subpart B—Reports on International Capital Transactions and Positions

- 128.11 Purpose of reports.  
128.12 Periodic reports.  
128.13 Special survey reports.

### Subpart C—Reports on Foreign Currency Positions

- 128.21 Purpose of reports.  
128.22 Periodic reports.

<sup>8</sup>Such a report would be a voluntary report under the statute and regulations. See 31 U.S.C. 5318(g)(3) (extending safe harbor protection from civil liability to voluntary filings).

128.23 Special survey reports.

APPENDIX A TO PART 128—DETERMINATION MADE BY NATIONAL ADVISORY COUNCIL PURSUANT TO SECTION 2 (A) AND (B) OF E.O. 10033

AUTHORITY: 22 U.S.C. 286f and 3101 *et seq.*; 31 U.S.C. 5315 and 5321.

SOURCE: 58 FR 58495, Nov. 2, 1993, unless otherwise noted.

## Subpart A—General Information

### § 128.1 General reporting requirements.

(a) *International capital transactions and positions.* (1) In order to implement the International Investment and Trade in Services Survey Act, as amended (22 U.S.C. 3101 *et seq.*); and E.O. 11961, and to obtain information requested by the International Monetary Fund under the articles of agreement of the Fund pursuant to section 8(a) of the Bretton Woods Agreements Act (22 U.S.C. 286f) and E.O. 10033, persons subject to the jurisdiction of the United States are required to report information pertaining to—

- (i) United States claims on, and liabilities to, foreigners;
- (ii) Transactions in securities and other financial assets with foreigners; and
- (iii) The monetary reserves of the United States.

(2) Data pertaining to direct investment transactions are not required to be reported under this Part.

(3) Reports shall be made in such manner and at such intervals as specified by the Secretary of the Treasury. See subpart B of this part for additional requirements concerning these reports.

(b) *Foreign currency positions.* (1) In order to provide data on the nature and source of flows of mobile capital, including transactions by large United States business enterprises (as determined by the Secretary) and their foreign affiliates as required by 31 U.S.C. 5315, persons subject to the jurisdiction of the United States are required to report information pertaining to—

- (i) Transactions in foreign exchange;
- (ii) Transfers of credit that are, in whole or part, denominated in a foreign currency; and