§ 1024.311 Filing obligations.

Refer to §1010.311 of this chapter for reports of transactions in currency filing obligations for mutual funds.

§ 1024.312 Identification required.

Refer to §1010.312 of this chapter for identification requirements for reports of transactions in currency filed by mutual funds.

§ 1024.313 Aggregation.

Refer to §1010.313 of this chapter for reports of transactions in currency aggregation requirements for mutual funds.

§ 1024.314 Structured transactions.

Refer to §1010.314 of this chapter for rules regarding structured transactions for mutual funds.

§ 1024.315 Exemptions.

Refer to §1010.315 of this chapter for exemptions from the obligation to file reports of transactions in currency for mutual funds.

§ 1024.320 Reports by mutual funds of suspicious transactions.

(a) General. (1) Every investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3) (“Investment Company Act”) that is an open-end company (as defined in section 5 of the Investment Company Act (15 U.S.C. 80a–5)) and that is registered, or is required to register, with the Securities and Exchange Commission pursuant to that Act (for purposes of this section, a “mutual fund”), shall file with the Financial Crimes Enforcement Network a report of any suspicious transaction relevant to a possible violation of law or regulation. A mutual fund may also file with the Financial Crimes Enforcement Network a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation, but whose reporting is not required by this section. Filing a report of a suspicious transaction does not relieve a mutual fund from the responsibility of complying with any other reporting requirements imposed by the Securities and Exchange Commission.

(2) A transaction requires reporting under this section if it is conducted or attempted by, at, or through a mutual fund, it involves or aggregates funds or other assets of at least $5,000, and the mutual fund knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this chapter or any other regulations promulgated under the Bank Secrecy Act;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the mutual fund knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the mutual fund to facilitate criminal activity.

(3) More than one mutual fund may have an obligation to report the same transaction under this section, and other financial institutions may have separate obligations to report suspicious activity with respect to the same transaction pursuant to other provisions of this chapter. In those instances, no more than one report is required to be filed by the mutual fund(s) and other financial institution(s) involved in the transaction, provided that the report filed contains all relevant facts, including the name of each financial institution and the words “joint filing” in the narrative section, and each institution maintains a copy of the report filed, along with any supporting documentation.
(b) Filing and notification procedures—

(1) What to file. A suspicious transaction shall be reported by completing a Suspicious Activity Report by Securities and Futures Industries ("SAR–SF"), and collecting and maintaining supporting documentation as required by paragraph (c) of this section.

(2) Where to file. Form SAR–SF shall be filed with the Financial Crimes Enforcement Network in accordance with the instructions to the Form SAR–SF.

(3) When to file. A Form SAR–SF shall be filed no later than 30 calendar days after the date of the initial detection by the reporting mutual fund of facts that may constitute a basis for filing a Form SAR–SF under this section. If no suspect is identified on the date of such initial detection, a mutual fund may delay filing a Form SAR–SF for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection.

(4) Mandatory notification to law enforcement. In situations involving violations that require immediate attention, such as suspected terrorist financing or ongoing money laundering schemes, a mutual fund shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a Form SAR–SF.

(5) Voluntary notification to the Financial Crimes Enforcement Network or the Securities and Exchange Commission. Mutual funds wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call the Financial Crimes Enforcement Network’s Financial Institutions Hotline at 1-866-556-3974 in addition to filing timely a Form SAR–SF if required by this section. The mutual fund may also, but is not required to, contact the Securities and Exchange Commission to report in such situations.

(c) Retention of records. A mutual fund shall maintain a copy of any Form SAR–SF filed by the fund or on its behalf (including joint reports), and the original (or business record equivalent) of any supporting documentation concerning any Form SAR–SF that it files (or is filed on its behalf), for a period of five years from the date of filing the Form SAR–SF. Supporting documentation shall be identified as such and maintained by the mutual fund, and shall be deemed to have been filed with the Form SAR–SF. The mutual fund shall make all supporting documentation available to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the mutual fund for compliance with the Bank Secrecy Act, upon request.

(d) Confidentiality of SARs. A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in this paragraph (d). For purposes of this paragraph (d) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this chapter.

(1) Prohibition on disclosures by mutual funds—(i) General rule. No mutual fund, and no director, officer, employee, or agent of any mutual fund, shall disclose a SAR or any information that would reveal the existence of a SAR. Any mutual fund, and any director, officer, employee, or agent of any mutual fund that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify FinCEN of any such request and the response thereto.

(ii) Rules of construction. Provided that no person involved in any reported suspicious transaction is notified that the transaction has been reported, this paragraph (d)(1) shall not be construed as prohibiting:

(A) The disclosure by a mutual fund, or any director, officer, employee, or agent of a mutual fund, of:

(i) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the mutual fund for compliance with the Bank Secrecy Act; or

(ii) The underlying facts, transactions, and documents upon which a SAR is based, including but not limited
§ 1024.400 General.

Mutual funds are subject to the recordkeeping requirements set forth and cross referenced in this subpart. Mutual funds should also refer to subpart D of part 1010 of this chapter for recordkeeping requirements contained in that subpart which apply to mutual funds.

§ 1024.410 Recordkeeping.

Refer to §1010.410 of this chapter.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

§ 1024.500 General.

Mutual funds are subject to the special information sharing procedures to deter money laundering and terrorist activity requirements set forth and cross referenced in this subpart. Mutual funds should also refer to subpart E of part 1010 of this chapter for special information sharing procedures to deter money laundering and terrorist activity contained in that subpart which apply to mutual funds.

§ 1024.520 Special information sharing procedures to deter money laundering and terrorist activity for mutual funds.

(a) Refer to §1010.520 of this chapter.
(b) [Reserved]

§ 1024.530 [Reserved]

§ 1024.540 Voluntary information sharing among financial institutions.

(a) Refer to §1010.540 of this chapter.
(b) [Reserved]

Subpart F—Special Standards of Diligence; Prohibitions; and Special Measures for Mutual Funds

§ 1024.600 General.

Mutual funds are subject to the special standards of diligence; prohibitions; and special measures requirements set forth and cross referenced in