

§ 1026.600

Subpart F—Special Standards of Diligence; Prohibitions; and Special Measures for Futures Commission Merchants and Introducing Brokers in Commodities

§ 1026.600 General.

Futures commission merchants and introducing brokers in commodities are subject to the special standards of diligence; prohibitions; and special measures requirements set forth and cross referenced in this subpart. Futures commission merchants and introducing brokers in commodities should also refer to subpart F of part 1010 of this chapter for special standards of diligence; prohibitions; and special measures contained in that subpart which apply to futures commission merchants and introducing brokers in commodities.

§ 1026.610 Due diligence programs for correspondent accounts for foreign financial institutions.

- (a) Refer to § 1010.610 of this chapter.
- (b) [Reserved]

§ 1026.620 Due diligence programs for private banking accounts.

- (a) Refer to § 1010.620 of this chapter.
- (b) [Reserved]

§ 1026.630 Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process.

- (a) Refer to § 1010.630 of this chapter.
- (b) [Reserved]

§ 1026.640 [Reserved]

§ 1026.670 Summons or subpoena of foreign bank records; termination of correspondent relationship.

- (a) Refer to § 1010.670 of this chapter.
- (b) [Reserved]

PART 1027—RULES FOR DEALERS IN PRECIOUS METALS, PRECIOUS STONES, OR JEWELS

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Subpart F—Special Standards of Diligence; Prohibitions, and Special Measures for Dealers in Precious Metals, Precious Stones, or Jewels

1027.600–1027.670 [Reserved]
AUTHORITY: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

SOURCE: 75 FR 65812, Oct. 26, 2010, unless otherwise noted.

Subpart A—Definitions

§ 1027.100 Definitions.

Refer to § 1010.100 of this chapter for general definitions not noted herein. To the extent there is a differing definition in § 1010.100 of this chapter, the definition in this section is what applies to part 1027. Unless otherwise indicated, for purposes of this part:

- (a) *Covered goods* means:
 - (1) Jewels (as defined in paragraph (c) of this section);

(2) Precious metals (as defined in paragraph (d) of this section);

(3) Precious stones (as defined in paragraph (e) of this section); and

(4) Finished goods (including, but not limited to, jewelry, numismatic items, and antiques), that derive 50 percent or more of their value from jewels, precious metals, or precious stones contained in or attached to such finished goods;

(b) *Dealer*. (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the term “dealer” means a person engaged within the United States as a business in the purchase and sale of covered goods and who, during the prior calendar or tax year:

(i) Purchased more than \$50,000 in covered goods; and

(ii) Received more than \$50,000 in gross proceeds from the sale of covered goods.

(2) For purposes of this section, the term “dealer” does not include:

(i) A retailer (as defined in paragraph (f) of this section), unless the retailer, during the prior calendar or tax year, purchased more than \$50,000 in covered goods from persons other than dealers or other retailers (such as members of the general public or foreign sources of supply); or

(ii) A person licensed or authorized under the laws of any State (or political subdivision thereof) to conduct business as a pawnbroker, but only to the extent such person is engaged in pawn transactions (including the sale of pawn loan collateral).

(3) For purposes of paragraph (b) of this section, the terms “purchase” and “sale” do not include a retail transaction in which a retailer or a dealer accepts from a customer covered goods, the value of which the retailer or dealer credits to the account of the customer, and the retailer or dealer does not provide funds to the customer in exchange for such covered goods.

(4) For purposes of paragraph (b) of this section and § 1027.210(a), the terms “purchase” and “sale” do not include the purchase of jewels, precious metals, or precious stones that are incorporated into machinery or equipment to be used for industrial purposes, and the purchase and sale of such machinery or equipment.

(5) For purposes of applying the \$50,000 thresholds in paragraphs (b)(1) and (b)(2)(i) of this section to finished goods defined in paragraph (a)(4) of this section, only the value of jewels, precious metals, or precious stones contained in, or attached to, such goods shall be taken into account.

(c) *Jewel* means an organic substance with gem quality market-recognized beauty, rarity, and value, and includes pearl, amber, and coral.

(d) *Precious metal* means:

(1) Gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and

(2) An alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals listed in paragraph (d)(1) of this section.

(e) *Precious stone* means a substance with gem quality market-recognized beauty, rarity, and value, and includes diamond, corundum (including rubies and sapphires), beryl (including emeralds and aquamarines), chrysoberyl, spinel, topaz, zircon, tourmaline, garnet, crystalline and cryptocrystalline quartz, olivine peridot, tanzanite, jadeite jade, nephrite jade, spodumene, feldspar, turquoise, lapis lazuli, and opal.

(f) *Retailer* means a person engaged within the United States in the business of sales primarily to the public of covered goods.

Subpart B—Programs

§ 1027.200 General.

Dealers in precious metals, precious stones, or jewels are subject to the program requirements set forth and cross referenced in this subpart. Dealers in precious metals, precious stones, or jewels should also refer to subpart B of part 1010 of this chapter for program requirements contained in that subpart which apply to dealers in precious metals, precious stones, or jewels.

§ 1027.210 Anti-money laundering programs for dealers in precious metals, precious stones, or jewels.

(a) *Anti-money laundering program requirement*. (1) Each dealer shall develop and implement a written anti-money

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laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering and the financing of terrorist activities through the purchase and sale of covered goods. The program must be approved by senior management. A dealer shall make its anti-money laundering program available to the Department of Treasury through FinCEN or its designee upon request.

(2) To the extent that a retailer's purchases from persons other than dealers and other retailers exceeds the \$50,000 threshold contained in §1027.100(b)(2)(i), the anti-money laundering compliance program required of the retailer under this paragraph need only address such purchases.

(b) *Minimum requirements.* At a minimum, the anti-money laundering program shall:

(1) Incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls developed and implemented by a dealer under this section shall include provisions for complying with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*), and this chapter.

(i) For purposes of making the risk assessment required by paragraph (b)(1) of this section, a dealer shall take into account all relevant factors including, but not limited to:

(A) The type(s) of products the dealer buys and sells, as well as the nature of the dealer's customers, suppliers, distribution channels, and geographic locations;

(B) The extent to which the dealer engages in transactions other than with established customers or sources of supply, or other dealers subject to this rule; and

(C) Whether the dealer engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371; designated as non-cooperative with international anti-money laundering principles or procedures by an inter-

governmental group or organization of which the United States is a member and with which designation the United States representative or organization concurs; or designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns.

(ii) A dealer's program shall incorporate policies, procedures, and internal controls to assist the dealer in identifying transactions that may involve use of the dealer to facilitate money laundering or terrorist financing, including provisions for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing, and for refusing to consummate, withdrawing from, or terminating such transactions. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include, but are not limited to:

(A) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from third parties;

(B) Unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations;

(C) Attempts by a customer or supplier to maintain an unusual degree of secrecy with respect to the transaction, such as a request that normal business records not be kept;

(D) Purchases or sales that are unusual for the particular customer or supplier, or type of customer or supplier; and

(E) Purchases or sales that are not in conformity with standard industry practice.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in the risk assessment, requirements of this chapter, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (b)(3) of this section.

(3) Provide for on-going education and training of appropriate persons concerning their responsibilities under the program.

(4) Provide for independent testing to monitor and maintain an adequate program. The scope and frequency of the testing shall be commensurate with the risk assessment conducted by the dealer in accordance with paragraph (b)(1) of this section. Such testing may be conducted by an officer or employee of the dealer, so long as the tester is not the person designated in paragraph (b)(2) of this section or a person involved in the operation of the program.

(c) *Implementation date.* A dealer must develop and implement an anti-money laundering program that complies with the requirements of this section on or before the later of January 1, 2006, or six months after the date a dealer becomes subject to the requirements of this section.

Subpart C—Reports Required To Be Made by Dealers in Precious Metals, Precious Stones, or Jewels

§ 1027.300 General.

Dealers in precious metals, precious stones, or jewels are subject to the reporting requirements set forth and cross referenced in this subpart. Dealers in precious metals, precious stones, or jewels should also refer to subpart C of part 1010 of this Chapter for reporting requirements contained in that subpart which apply to dealers in precious metals, precious stones, or jewels.

§§ 1027.310–1027.320 [Reserved]

§ 1027.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

Refer to § 1010.330 of this chapter for rules regarding the filing of reports relating to currency in excess of \$10,000 received by dealers in precious metals, precious stones, or jewels.

Subpart D—Records Required To Be Maintained By Dealers in Precious Metals, Precious Stones, or Jewels

§ 1027.400 General.

Dealers in precious metals, precious stones, or jewels are subject to the recordkeeping requirements set forth and cross referenced in this subpart. Dealers in precious metals, precious stones, or jewels should also refer to subpart D of part 1010 of this chapter for recordkeeping requirements contained in that subpart which apply to dealers in precious metals, precious stones, or jewels.

§ 1027.410 Recordkeeping.

Refer to § 1010.410 of this chapter.

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

§ 1027.500 General.

Dealers in precious metals, precious stones, or jewels are subject to the special information sharing procedures to deter money laundering and terrorist activity requirements set forth and cross referenced in this subpart. Dealers in precious metals, precious stones, or jewels should also refer to Ssubpart 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 dealers in precious metals, precious stones, or jewels.

§ 1027.520 Special information sharing procedures to deter money laundering and terrorist activity for dealers in precious metals, precious stones, or jewels.

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

§ 1027.530 [Reserved]

§ 1027.540 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 Dealers in Precious Metals, Precious Stones, or Jewels

Subpart A—Definitions

§§ 1027.600–1027.670 [Reserved]

§ 1028.100 Definitions.

PART 1028—RULES FOR OPERATORS OF CREDIT CARD SYSTEMS

Refer to §1010.100 of this chapter for general definitions not noted herein. To the extent there is a differing definition in §1010.100 of this chapter, the definition in this section is what applies to part 1028. Unless otherwise indicated, for purposes of this part:

Subpart A—Definitions

(a) *Acquiring institution* means a person authorized by the operator of a credit card system to contract, directly or indirectly, with merchants or other persons to process transactions, including cash advances, involving the operator's credit card.

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1028.100 Definitions.

(b) *Credit card* has the same meaning as in 15 U.S.C. 1602(k). It includes charge cards as defined in 12 CFR 226.2(15).

Subpart B—Programs

1028.200 General.

1028.210 Anti-money laundering programs for operators of credit card systems.

(c) *Foreign bank* means any organization that is organized under the laws of a foreign country; engages in the business of banking; is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or the country of its principal banking operations; and receives deposits in the regular course of its business. For purposes of this definition:

Subpart C—Reports Required To Be Made by Operators of Credit Card Systems

1028.300 General.

1028.310–1028.320 [Reserved]

1028.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

(1) The term foreign bank includes a branch of a foreign bank in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

Subpart D—Records Required To Be Maintained by Operators of Credit Card Systems

1028.400 General.

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(2) The term foreign bank does not include:

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

1028.500 General.

1028.520 Special information sharing procedures to deter money laundering and terrorist activity for operators of credit card systems.

1028.530 [Reserved]

1028.540 Voluntary information sharing among financial institutions.

(i) A U.S. agency or branch of a foreign bank; and

(ii) An insured bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

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(d) *Issuing institution* means a person authorized by the operator of a credit card system to issue the operator's credit card.

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(e) *Operator of a credit card system* means any person doing business in the United States that operates a system for clearing and settling transactions in which the operator's credit card, whether acting as a credit or debit card, is used to purchase goods or services or to obtain a cash advance. To fall within this definition, the operator

AUTHORITY: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

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