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PARK WATCH ® A LEGAL DEVELOPMENTS NEWSLETTER

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Mobilehome Lenders Subject to New Federal Anti-Money Laundering Regulations -*Effective April 16, 2012*

We recommend: LEASING DOCUMENTS SHOULD NOW INCLUDE BROAD FACILITIES RELEASES AND FED ARBITRATION CLAUSES

By: Terry R. Dowdall, Esq.

● Upshot

The federal government has promulgated new regulations dealing with persons who make loans on mobilehomes *other* than commercial institutions. This means park owners. *Yes*, the new regulations from the Department of Treasury's "Financial Crimes Enforcement Network" ("FinCEN") will include mobilehome park owners who offer financing for the sale of mobilehomes in their parks in transactions within the scope of the new regs.

To be observed is: that these regulations are not part of but *in addition to* the RED FLAGS requirements and the SAFE ACT (and will remain separate from the CFPB regulations still to be forthcoming in respect to loan modifications and mortgage servicing); further, that the pace and volume of new federal regulations over the last few years is conspicuously unprecedented.

The administration's new rules were released February 7, 2012, extending anti-money laundering ("AML") and suspicious activity report ("SAR") requirements to non-bank residential mortgage lenders and originators. The regulations require non-bank mortgage lenders to assist law enforcement agencies with fraud detection in a manner similar to the requirements for large commercial and institutional entities.

Specifically, all non-bank lenders—including anyone making loans for mobilehome purchases (for example, park owners), must establish an AML procedure. The rules are available at www.dowdalllaw.com ➔"resources" ➔"laws and regulations" ➔"federal law" "*Department of the Treasury, Financial Crimes Enforcement Network, 31 CFR Parts 1010 and 1029.*" FinCEN was formerly inclined to defer regulations for commercial real estate finance businesses and other types of consumer and commercial finance businesses until further research and analysis can be conducted to "enhance" their "understanding." Our time has now come. Compliance dates: Anti Money Laundering Program and Suspicious Activity Reporting: **August 13, 2012**.

● Background

Early this century, federal regulators had growing concerns about "abusive" and "fraudulent" sales and financing practices in both the primary and secondary residential mortgage markets. So, FinCEN launched several initiatives focused on residential mortgage lending. FinCEN then contemplated an "incremental approach" to implementation of anti-money laundering regulations for those engaged in residential lending or origination not currently subject to any AML programs.

The feds say that "Non-bank residential mortgage lenders and originators" are primary providers of mortgage finance and believed to be in the best position to identify money-laundering risks and fraud while

directly assisting consumers and protecting them from financial crimes. "FinCEN believes" that the new regulations, requiring non-bank residential mortgage lenders and originators to adopt AML programs and report suspicious transactions, will augment FinCEN's initiatives in this area.

However, in 2002, FinCEN issued a regulation that temporarily exempted loan and finance companies and other categories of Bank Security Act-defined financial institutions from the obligation to establish AML programs. *Why?* To enable the Department of the Treasury and FinCEN to do further study, taking into account any money laundering vulnerabilities. As a result, *Non-bank residential mortgage lenders and originators* ("RMLOs") did not have to comply with AML, SAR, other Bank Secret Act requirements. Now, FinCEN has identified this exemption as a "regulatory gap." In the federal effort to regulate absolutely everything, on July 21, 2009, FinCEN issued an Advance Notice of Proposed Rulemaking ("ANPRM") soliciting comments on whether FinCEN should issue AML and SAR program regulations for RMLOs (note that finCEN already found that justification when it concluded that there could be exploitation by criminals and mortgage fraud in the context of the RMLO.

● Exclusions, Exemptions, Definitions

Park owner financing home sales must first (and as a reminder, always) comply with (1) the SAFE Act (discussed previously, see www.dowdalllaw.com➔ "publications" ➔ WMA Reporter, December, 2011 [*"S.A.F.E. Act: A 12 Step Program for Compliance "*]); and the Red Flags Rules ("publications" ➔ "*UPDATE on Red Flags Rule. Clarification Act signed December 18, 2010, Effective January 1, 2011. May Relieve Duty of a Written Plan for Many Owners!*").

With regard to the finCEN requirements:

- ▲ report suspicious activity involving loans for the purchase and sale of park-financed homes,
- ▲ report cash transactions of $10,000 or more.
- ▲ prepare an "AML" program (anti-money laundering program).

Are Park Owners Who Finance Sales of Mobilehomes Excluded or Exempt?

No. The exclusions include these categories: Banks and insured depository institutions; persons registered with and functionally regulated or examined by the Securities and Exchange Commission or the Commodity Futures Trading Commission; individuals employed by covered loan or finance companies and affiliated financial institutions; and individuals who finance the sale of their own property (*i.e.*, seller-financed sales).

SAFE registration and training. One commenter stated that SAFE registration and training are sufficient to address anti-money laundering and terrorist financing risks encountered by RMLOs. FinCEN did not agree.

Small Size Covered. FinCEN does not agree that RMLOs with less than a certain arbitrary number of employees or net worth should be excepted from the Final Rule. FinCEN believes that a "small business" exclusion or exception for businesses with fewer than five employees, or for businesses that satisfy some other arbitrary size, net worth or similar criteria, would perpetuate the present substantial gap in SAR reporting. This would encourage a shift of mortgage transactions to small lenders and brokers.

de minimis exception? (loans under a low value, or low aggregate volume of transactions) finCEN sees no good reason to except any businesses or transactions based on an arbitrary, de minimis dollar amount or volume of transactions.

Sole Proprietorships covered. Final Rule explicitly covers sole proprietorships.

Employees. Final Rule does not contemplate coverage of an individual employed by a loan or finance company or financial institution, such as administrative assistants and office clerks who gather documents, review land records and complete forms on behalf of a lender or originator.

"*Carry-back" Sellers*. There is an exception for individuals financing the sale of their own real estate.

Housing Government Sponsored Enterprises ("GSEs"): and their employees involved in "loss mitigation" activities. Final Rule does not apply to housing GSEs or employees. Excluded are "any government sponsored enterprise regulated by the Federal Housing Finance Agency."

Mortgage Loan Servicers: As long as a mortgage servicer does not extend residential mortgage loans or offer or negotiate the terms of a residential mortgage loan application, it will not fall under of the definition of residential mortgage loan originator. finCEN will not, however, make a blanket exclusion or exception for mortgage servicers, and the individual services offered are open to scrutiny for more than the usual limited definition.

Home Affordable Modification Program, or "HAMP." Loan modifications under such programs are not covered, to the extent that the modifications *do not involve extending new residential mortgage loans* or offering or negotiating the terms of a residential mortgage loan application.

Definition of Loan or Finance Company:

"Loan or finance company" is limited to RMLOs in this iteration of regs: AML programs and SAR requirements should be applied first to these businesses says finCEN, and later—as part of a phased approach— applied to other consumer and commercial loan and finance companies. The Final Rule is to be "broad in scope" and cover "most non-bank residential mortgage originators," including:

▲ Any business that, on behalf of one or more lenders, accepts a completed mortgage loan application, even if the business does not in any manner engage in negotiating the terms of a loan.

▲ Any business that "offers" or "negotiates" specific loan terms on behalf of either a lender or borrower, regardless of whether they also accept a mortgage loan application.

The Final Rule modifies the proposed definition of "residential mortgage originator" slightly to include "persons" who "accept a residential mortgage loan application or that offer or negotiate terms of a residential mortgage loan." (The change made from the NPRM of replacing the term "take" with "accept" is intended to differentiate the Final Rule from the SAFE Act).

The change from "and" to "or" is intended to ensure that persons who either accept an application or offer or negotiate the terms of a loan are covered.

The Final Rule applies to residential mortgage originators, regardless of whether they receive compensation or gain for acting in that capacity. Accordingly, the phrase "for compensation or gain" in the proposed definition is removed from the definition in the Final Rule.

These changes create greater differences between the definitions in this Final Rule and those used in the SAFE Act and other federal mortgage-related statutes. This was done intentionally to differentiate this Final Rule from those statutes so that the interpretation of this Final Rule is not based on the interpretation of those statutes. The Final Rule to be consistent with the SAFE Act only to the extent deemed appropriate to advance finCEN's mission.

The Final Rule generally is intended to cover *initial purchase money loans and traditional refinancing transactions facilitated by RMLOs.*

RMLOs participating in transactions under the Troubled Asset Relief Program and similar Federal programs such as the Making Home Affordable Program, the Home Affordable Modification Program, the Hardest Hit Funds Program and the Federal Housing Administration Refinance Program, or any similar state housing authority or housing assistance program are covered (these programs are vulnerable to fraud and money laundering).

The Final Rule, however, does not apply to the Federal or state housing authorities and agencies administering such programs. The proposed definition of "loan or finance company" has been revised to exclude "any Federal or state agency or authority administering mortgage or housing assistance, fraud prevention or foreclosure prevention programs."

Non-Profits are Covered. finCEN also expects nonprofit housing organizations to comply with the Final Rule, to the extent any such organization may reasonably be deemed to be extending a residential mortgage loan (including a short-term mortgage loan), or offering or negotiating the terms of a residential mortgage loan. However, finCEN would not expect legitimate, non-profit organizations that limit their activities to the following to fall within the scope of the Final Rule:

(1) Assisting with the preparation of loan applications or referral to qualified lenders, for free or for a fee;

(2) That provide short-term, non-mortgage loans to qualified borrowers or homeowners; or

(3) That otherwise facilitate the extension of a residential mortgage loan (but do not make the loan or offer or negotiate the terms of the loan).

● Park Owners Who Finance Sales of Homes Must Report Suspicious Activity and Prepare an Anti-Money Laundering Program

Anti-money Laundering Program: Every company must develop and implement its own anti-money laundering program. The program must aim to prevent the loan or finance company from being used to facilitate money laundering or the financing of terrorist activities. This requirement was over objection of some, that just the "suspicious activity" report should be required. [1]

"4 Pillars": Businesses are required to implement risk-based programs that take into account the unique risks associated with the particular products and services, and the business size, market, and other issues.

Reports of Suspicious Transactions: Businesses must report suspicious transactions conducted or attempted by, at, or through a loan or finance company that involve or aggregate at least $5,000 in funds or other assets, regardless of whether they involve currency. Examples of some common patterns of suspicious activity are:

Suspicious Activity Report

July 2003

Previous editions will not be accepted after December 31, 2003

ALWAYS COMPLETE ENTIRE REPORT (see instructions)

1 Check box below only if correcting a prior report.
☐ Corrects Prior Report (see instruction #3 under "How to Make a Report")

Part I Reporting Financial Institution Information

2 Name of Financial Institution | 3 EIN

4 Address of Financial Institution | 5 Primary Federal Regulator: a ☐ Federal Reserve b ☐ FDIC c ☐ NCUA d ☐ OCC e ☐ OTS

6 City | 7 State | 8 Zip Code

9 Address of Branch Office(s) where activity occurred ☐ Multiple Branches (include information in narrative, Part V)

10 City | 11 State | 12 Zip Code | 13 If institution closed, date closed

14 Account number(s) affected, if any | Closed? ☐ Yes ☐ No

Part II Suspect Information ☐ Suspect Information Unavailable

15 Last Name or Name of Entity | 16 First Name | 17 Middle

18 Address | 19 SSN, EIN or TIN

20 City | 21 State | 22 Zip Code | 23 Country

24 Phone Number - Residence | 25 Phone Number - Work

26 Occupation/Type of Business | 27 Date of Birth | 28 Admission/Confession? ☐ Yes ☐ No

29 Forms of Identification for Suspect: ☐ Driver's License/State ID ☐ Passport ☐ Alien Registration ☐ Other

30 Relationship to Financial Institution: ☐ Accountant ☐ Agent ☐ Appraiser ☐ Attorney ☐ Borrower ☐ Broker ☐ Customer ☐ Director ☐ Employee ☐ Officer ☐ Shareholder ☐ Other

31 Is the relationship an insider relationship? ☐ Yes ☐ No | If Yes specify: ☐ Still employed at financial institution ☐ Terminated ☐ Suspended ☐ Resigned

32 Date of Suspension, Termination, Resignation

This is a previous SAR form from 2003.

- a lack of evidence of legitimate business activity, or any business operations at all, undertaken by many of the parties to the transaction(s);

- unusual financial nexuses and transactions occurring among certain business types (e.g., food importer dealing with an auto parts exporter);

- transactions that are not commensurate with the stated business type and/or that are unusual and unexpected in comparison with the volumes of similar businesses operating in the same locale;

- unusually large numbers and/or volumes of wire transfers and/or repetitive wire transfer patterns;

- unusually complex series of transactions indicative of layering activity involving multiple accounts, banks, parties, jurisdictions;

- suspected shell entities;

- bulk cash and monetary instrument transactions;

- unusual mixed deposits of money orders, third party checks, payroll checks, etc., into a business account;

- transactions being conducted in bursts of activities within a short period of time, especially in previously dormant accounts;

- transactions and/or volumes of aggregate activity inconsistent with the expected purpose of the account and expected levels and types of account activity conveyed to the financial institution by the account holder at the time of the account opening;

[1] Some argued that SAR filings are the primary means of conveying valuable information to law enforcement and that requiring a full AML program imposes unnecessary complexity, paperwork, and regulatory burdens that outweigh the potential benefits to law enforcement: simply maintaining an AML program will create an unnecessary regulatory burden, and the costs would far outweigh the benefits to law enforcement. This argument was considered and rejected.

• beneficiaries maintaining accounts at foreign banks that have been subjects of previous SAR filings;

• parties and businesses that do not meet the standards of routinely initiated due diligence and anti-money laundering oversight programs (e.g., unregistered/unlicensed businesses);

• transactions seemingly designed to, or attempting to avoid reporting and record-keeping requirements; and

4 Types of Transactions Require Reporting: A loan or finance company is required to report a transaction if it 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 to hide or disguise funds or assets derived from illegal activity;

(ii) is designed, whether through structuring or other means, to evade the requirements of the Bank Secrets Act;

(iii) has no business or apparent lawful purpose, and the loan or finance company knows of no reasonable explanation for the transaction after examining the available facts; or

(iv) involves the use of the loan or finance company to facilitate criminal activity.

The suspicion may be considered based on all the facts and circumstances. There is no list of suspicious transactions.

Time To Report: 30 days: Within thirty days after a loan or finance company becomes aware of a suspicious transaction, the business must report the transaction by completing a "SAR" and filing it with FinCEN (SAR form available at www.dowdalllaw.com ➔ "resources" ➔ "codes and regulations" ➔ "federal law" ➔"*Suspicious Activity Report Form*"). Disclosure of SAR information to FinCEN, will be made available to Federal, state, and local law enforcement agencies, or a Federal regulatory authority (that examine the loan or finance company for compliance with the Bank Secret Act), or a state regulatory authority (administering a law that requires the loan or finance company to comply with the BSA). There is protection provided from liability for making and filing the SAR. The Final Rule provides exactly the same "safe harbor'' for loan originators as provided for other financial institutions. The reporter is NOT PERMITTED to disclose that a report has been filed. Intentionally failing to file a Form 8300, or filing one that is intentionally inaccurate or purposely omits required information is punishable by civil fines of up to $100,000, or criminally by imprisonment up to ten years and a fine of up to $500,000.

● Required Reporting of Cash Receipts of $10,000 or More

The new regs (§1010.330) refer to the conditions under which a cash receipt of 10,000 or more must be reported to the federal government. A copy of that code and reporting form (IRS 8300 form) is available at www.dowdalllaw.com ➔ "resources" ➔ "laws and regulations" ➔ "federal law" ➔ "*finCEN Currency Transaction Report Requirements.*"

The reg requires that if a person receives, in the course of a trade or business in which such person is engaged, currency in excess of $10,000 in 1 transaction (or 2 or more related transactions), a report must be made. If the initial payment does not exceed $10,000, the recipient must aggregate the initial payment and subsequent payments made within one year of the initial payment until the aggregate amount exceeds $10,000, and report with respect to the aggregate amount within 15 days after receiving the payment that causes the aggregate amount to exceed $10,000. Currency in excess of $10,000 received by a person for the account of another must be reported under this section. A person who in the course of a trade or business acts as an agent (or in some other similar capacity) and receives currency in excess of $10,000 from a principal must report the receipt of currency under this section.

"Currency" Defined: Solely for purposes of 31 U.S.C. 5331 and this section, currency means—

(i) The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued; and

(ii) A cashier's check (by whatever name called, including "treasurer's check" and "bank check"), bank draft, traveler's check, or money order having a face amount of not more than $10,000—

(A) Received in a designated reporting transaction as defined in paragraph (c)(2) of this section (except as provided in paragraphs (c)(3), (4), and (5) of this section), or

(B) Received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid the reporting of the transaction under section 5331 and this section.

Mobilehome is a "consumer durable": A designated reporting transaction is a retail sale (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of a consumer durable. "Transactions" include (but are not limited to) a sale of goods or services; a sale of real property; a sale of intangible property; a rental of real or personal property; an exchange of currency for other currency; the establishment or maintenance of or contribution to a custodial, trust, or escrow arrangement; a payment of a preexisting debt; a conversion of currency to a negotiable instrument; a reimbursement for expenses paid; or the making or repayment of a loan.

Applies to Currency: And certified funds, but not when used for downpayments with taking of a security interest:

Esmeralda, an individual, purchases a mobilehome from Quincy, a dealer, for $11,500. Esmeralda tenders to Quincy the amount, in United States currency, of $2,000 and a cashier's check payable to Esmeralda and Quincy in the amount of $9,500. The cashier's check constitutes the proceeds of a loan from the bank issuing the check. The origin of the proceeds is evident from provisions inserted by the bank on the check that instruct the dealer to cause a lien to be placed on the vehicle as security for the loan. The sale is a designated reporting transaction. However, because Esmeralda has furnished Quincy documentary information establishing that the cashier's check constitutes the proceeds of a loan from the bank issuing the check, *the cashier's check is not treated as currency*.

Penalties for Non-Compliance: Failure to comply with record-keeping requirements: up to $1000 per violation; failure to comply with a reporting requirement: not to exceed the greater of the amount involved in the transaction (not to exceed $100,000) or $25,000. Continued noncompliance could result in issuance of cease and desist order and forfeiture of assets.

Other Exceptions:

Exception for certain loans *(proceeds of a loan from a bank)*: A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency if the instrument constitutes the *proceeds of a loan from a bank*. The recipient may rely on a copy of the loan document, a written statement from the bank, or similar documentation (such as a written lien instruction from the issuer of the instrument) to substantiate that the instrument constitutes loan proceeds.

Exception for certain installment sales *(payment on a promissory note or an installment sales contract)*: A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency if the instrument is received *in payment on a promissory note or an installment sales contract* (including a lease that is considered to be a sale for Federal income tax purposes). However, the preceding sentence applies only if—

(i) Promissory notes or installment sales contracts with the same or substantially similar terms are used in the ordinary course of the recipient's trade or business in connection with sales to ultimate consumers; and
(ii) The total amount of payments with respect to the sale that are received on or before the 60th day after the date of the sale does not exceed 50 percent of the purchase price of the sale.

Exception for certain down payment plans *(one or more down payments with balance at date of sale)*: A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency if the instrument is received pursuant to a payment plan requiring one or more down payments and the payment of the balance of the purchase price by a date no later than the date of the sale. However, this exception applies only if—

(i) The recipient uses payment plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers; and

(ii) The instrument is received more than 60 days prior to the date of the sale (in the case of an item of travel or entertainment, the date on which the final payment is due).

For example: G, an individual, purchases a boat from T, a boat dealer, for $16,500. G pays T with a cashier's check

payable to T in the amount of $16,500. The cashier's check is not treated as currency because the face amount of the check is more than $10,000. Thus, no report is required to be made by T under section 5331 and this section.

● Required Record-Keeping

Loan or finance companies are subject to the record-keeping requirements. A copy of that code is available at www.dowdalllaw.com ➔ "resources" ➔ "laws and regulations" ➔ "federal law" ➔ "*finCEN Record Keeping Requirements.*" There are two areas of duty which appear to apply.

Basically, each financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) A record of each extension of credit in an amount in excess of $10,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;

(b) A record of each advice, request, or instruction received or given regarding any transaction resulting (or intended to result and later canceled if such a record is normally made) in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit, of more than $10,000 to or from any person, account, or place outside the United States.

(c) A record of each advice, request, or instruction given to another financial institution or other person located within or without the United States, regarding a transaction intended to result in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account or place outside the United States.

(d) A record of such information for such period of time as the Secretary may require in an order issued under §1010.370(a), not to exceed five years.

Additionally, "nonbank financial institutions," (that's park owners who finance sales of mobilehomes in their parks) are subject to the record-keeping requirements of §1010.410(e) (discussed below and available at www.dowdalllaw.com, ➔"resources" ➔"codes and regulations" ➔"federal law"➔ "*finCEN Record Keeping Requirements.*"), with respect to a transmittal of funds in the amount of $3,000 or more. For *each* transmittal order that it accepts as a transmittor's financial institution, a nonbank financial institution shall obtain and retain either the original or a microfilm, other copy, or electronic record of the following information relating to the transmittal order:

- ▲ The name and address of the transmittor;
- ▲ The amount of the transmittal order;
- ▲ The execution date of the transmittal order;
- ▲ Any payment instructions received from the transmittor with the transmittal order;
- ▲ The identity of the recipient's financial institution;
- ▲ As many of the following items as are received with the transmittal order:
  - (1) The name and address of the recipient;
  - (2) The account number of the recipient; and
  - (3) Any other specific identifier of the recipient.

For transmittals of funds effected through the Federal Reserve's Fedwire funds transfer system by a domestic broker or dealers in securities, only one of the items is required to be retained, if received with the transmittal order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format. The records must be kept so as to be "retrievable" by the transmittor's financial institution by reference to the name of the transmittor; though, the information need not be retained "in any particular manner."

Verification. Where verification is required under paragraphs (e)(2) and (e)(3) of this section, a financial institution shall verify a person's identity by examination of a document (other than a customer signature card), preferably one that contains the person's name, address, and photograph, that is normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with indication of home address).

Time Period for Retention of Records: Records (SAR copies and supporting materials) shall be retained for **5 years** and kept at all times available for inspection. In the computation of the period of 5 years, there shall be disregarded any period beginning with a date on which the taxpayer is indicted or information instituted on account of the filing of a false or fraudulent Federal income tax return or failing to file a Federal income tax return.

Policing Compliance and Penalties: Compliance with the obligation to report suspicious transactions will be examined by FinCEN; failure to comply may constitute a violation of the BSA and its regulations. FinCEN is authorized to impose a range of civil and criminal penalties, the severity of which depends on the specific circumstances.

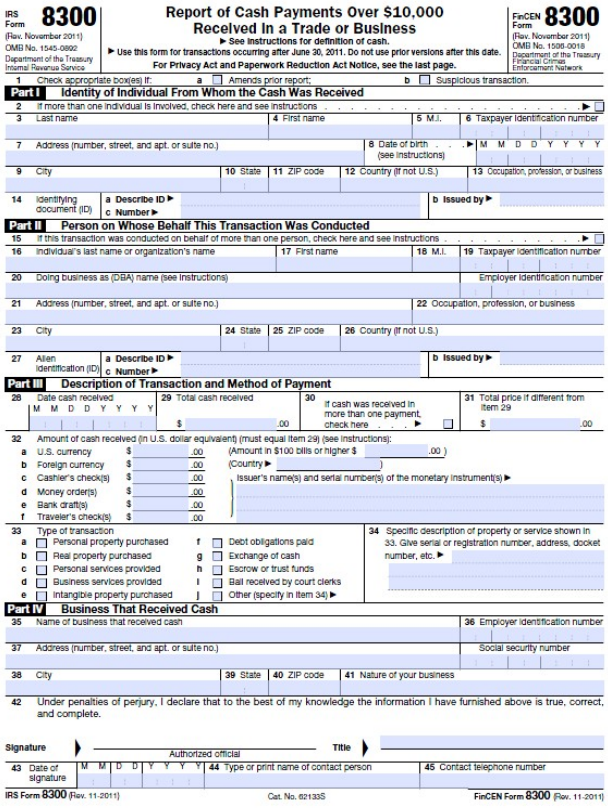
Beginning Date for Compliance: SAR requirements apply after an AML program is required: six months from the Final Rule's date (April 16, 2012).

● Special Information Procedures To Deter Money Laundering and Terrorist Activity

The new regs (at §1029.500) state, generally, that loan or finance companies are subject to the special information procedures to detect money laundering and terrorist activity requirements set forth and cross referenced in sections 1029.520 (cross-referencing to 31 CFR 1010.520) and 1029.540 (cross-referencing to 31 CFR 1010.540). These reference provisions are available at www.dowdalllaw.com ➔ "resources" ➔ "codes and regulations" ➔ "federal law" ➔ "*Record Sharing and Production Requirements*" and ➔"*finCEN Record Sharing - Voluntary.*"

● Record Production Requirements

The regs impose a new obligation to produce records at the request of finCEN. Upon receiving an information request from FinCEN, the owner shall expeditiously search its records to see if it has or had any account or engaged in any transaction with those named in FinCEN's request. The information may include:



IRS Form 8300 (Rev. November 2011) OMB No. 1545-0892 Department of the Treasury Internal Revenue Service

Report of Cash Payments Over $10,000 Received in a Trade or Business

▶ See instructions for definition of cash.

▶ Use this form for transactions occurring after June 30, 2011. Do not use prior versions after this date.

For Privacy Act and Paperwork Reduction Act Notice, see the last page.

FinCEN Form 8300 (Rev. November 2011) OMB No. 1506-0018 Department of the Treasury Financial Crimes Enforcement Network

1 Check appropriate box(es) if: a ☐ Amends prior report; b ☐ Suspicious transaction.

Part I Identity of Individual From Whom the Cash Was Received

2 If more than one individual is involved, check here and see instructions ▶ ☐

3 Last name | 4 First name | 5 M.I. | 6 Taxpayer identification number

7 Address (number, street, and apt. or suite no.) | 8 Date of birth (see instructions) ▶ M M D D Y Y Y Y

9 City | 10 State | 11 ZIP code | 12 Country (if not U.S.) | 13 Occupation, profession, or business

14 Identifying document (ID) | a Describe ID ▶ | c Number ▶ | b Issued by ▶

Part II Person on Whose Behalf This Transaction Was Conducted

15 If this transaction was conducted on behalf of more than one person, check here and see instructions ▶ ☐

16 Individual's last name or organization's name | 17 First name | 18 M.I. | 19 Taxpayer identification number

20 Doing business as (DBA) name (see instructions) | Employer identification number

21 Address (number, street, and apt. or suite no.) | 22 Occupation, profession, or business

23 City | 24 State | 25 ZIP code | 26 Country (if not U.S.)

27 Alien identification (ID) | a Describe ID ▶ | c Number ▶ | b Issued by ▶

Part III Description of Transaction and Method of Payment

28 Date cash received M M D D Y Y Y Y | 29 Total cash received $ .00 | 30 If cash was received in more than one payment, check here ▶ ☐ | 31 Total price if different from item 29 $ .00

32 Amount of cash received (in U.S. dollar equivalent) (must equal item 29) (see instructions):

a U.S. currency $ .00 (Amount in $100 bills or higher $ .00)

b Foreign currency $ .00 (Country ▶)

c Cashier's check(s) $ .00 Issuer's name(s) and serial number(s) of the monetary instrument(s) ▶

d Money order(s) $ .00

e Bank draft(s) $ .00

f Traveler's check(s) $ .00

33 Type of transaction

a ☐ Personal property purchased
b ☐ Real property purchased
c ☐ Personal services provided
d ☐ Business services provided
e ☐ Intangible property purchased
f ☐ Debt obligations paid
g ☐ Exchange of cash
h ☐ Escrow or trust funds
i ☐ Bail received by court clerks
j ☐ Other (specify in item 34) ▶

34 Specific description of property or service shown in 33. Give serial or registration number, address, docket number, etc. ▶

Part IV Business That Received Cash

35 Name of business that received cash | 36 Employer identification number

37 Address (number, street, and apt. or suite no.) | Social security number

38 City | 39 State | 40 ZIP code | 41 Nature of your business

42 Under penalties of perjury, I declare that to the best of my knowledge the information I have furnished above is true, correct, and complete.

Signature ▶ Authorized official | Title ▶

43 Date of signature M M D D Y Y Y Y | 44 Type or print name of contact person | 45 Contact telephone number

IRS Form 8300 (Rev. 11-2011) Cat. No. 62133S FinCEN Form 8300 (Rev. 11-2011)

(A) Any current account maintained for a named suspect;

(B) Any account maintained for a named suspect during the preceding twelve months; and

(C) Any transaction conducted by or on behalf of a named suspect, or any transmittal of funds conducted in which a named suspect was either the transmittor or the recipient, during the preceding six months.

There are provisions for information sharing with other institutions, and where an owner engages in the sharing of information it must maintain adequate procedures to protect the security and confidentiality of such information.

The regs implement the Patriot Act, and generally apply to any financial institution and any such financial institution that is subject to an AML program requirement. Because loan or finance companies are specifically enumerated and will be subject to the AML program requirement, they are subject to these rules.

The Reporting Forms:
IRS 8300: Suspicious activity *less than* $10,000 or less; Receipt of Currency of *more than* $10,000+:

[The IRS form is available at www.dowdalllaw.com ➔ "resources" ➔ "codes and regulations" ➔ "federal law" ➔ "*Suspicious Activity Report - Form: Caveat, Watch for Updates/Revisions.*"]

Who must file. When you receive more than $10,000 in cash in one transaction or in two or more related transactions.

And, when you believe suspicious activity is afoot.

Record-Keeping: Keep a copy of each Form 8300 for 5 years from the date you file it.

Voluntary use of Form 8300. Form 8300 may be filed voluntarily for any suspicious transaction for use by FinCEN and the IRS, even if the total amount does not exceed $10,000. The CTR form is used if the suspicious activity is greater than $10,000.

Cash is not required to be reported if it is received by an agent who receives the cash from a principal, if the agent uses all of the cash within 15 days in a second transaction that is reportable on Form 8300 or on Form 104, and discloses all the information necessary to complete Part II of Form 8300 or Form 104 to the recipient of the cash in the second transaction; or in a transaction that is not in the course of a person's trade or business.

When to file. File Form 8300 by the 15th day after the date the cash was received. If that date falls on a Saturday, Sunday, or legal holiday, file the form on the next business day.

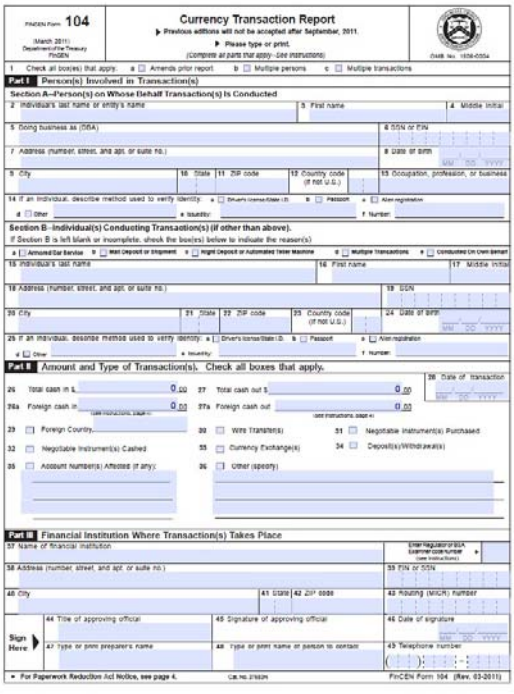
Where to file. File the form with the: *"Internal Revenue Service, Detroit Computing Center, P.O. Box 32621, Detroit, Ml 48232."*

Statement to be provided. You must give a written or electronic statement to each person named on a required Form 8300 on or before January 31 of the year following the calendar year in which the cash is received. The statement must show the name, telephone number, and address of the information contact for the business, the aggregate amount of reportable cash received, and that the information was furnished to the IRS.

Multiple payments. If you receive more than one cash payment for a single transaction or for related transactions, you must report the multiple payments any time you receive a total amount that exceeds $10,000 within any 12-month period. Submit the report within 15 days of the date you receive the payment that causes the total amount to exceed $10,000. If more than one report is required within 15 days, you may file a combined report. File the combined report no later than the date the earliest report, if filed separately, would have to be filed.

Taxpayer identification number (TIN). You must furnish the correct TIN of the person or persons from whom you receive the cash and, if applicable, the person or persons on whose behalf the transaction is being conducted. You may be subject to penalties for an incorrect or missing TIN (for individuals, including a sole proprietorship, the social security number). For certain resident aliens who are not eligible to get an SSN and nonresident aliens who are required to file tax returns, it is an IRS Individual Taxpayer Identification Number (ITIN). For other persons, including corporations, partnerships, and estates, it is the employer identification number (EIN).

If you have requested but are not able to get a TIN for one or more of the parties to a transaction within 15 days following the transaction, file the report and attach a statement explaining why the TIN is not included.



Currency Transaction Report

(March 2011)

Previous editions will not be accepted after September, 2011.

Please type or print.

(Complete all parts that apply - See instructions)

OMB No. 1506-0004

1 Check all box(es) that apply: a ☐ Amends prior report b ☐ Multiple persons c ☐ Multiple transactions

Part I Person(s) Involved in Transaction(s)

Section A–Person(s) on Whose Behalf Transaction(s) Is Conducted

2 Individual's last name or entity's name | 3 First name | 4 Middle initial

5 Doing business as (DBA) | 6 SSN or EIN

7 Address (number, street, and apt. or suite no.) | 8 Date of birth MM DD YYYY

9 City | 10 State | 11 ZIP code | 12 Country code (if not U.S.) | 13 Occupation, profession, or business

14 If an individual, describe method used to verify identity: a ☐ Driver's license/State I.D. b ☐ Passport c ☐ Alien registration

d ☐ Other | e Issued by: | f Number:

Section B–Individual(s) Conducting Transaction(s) (if other than above).

If Section B is left blank or incomplete, check the box(es) below to indicate the reason(s)

a ☐ Armored Car Service b ☐ Mail Deposit or Shipment c ☐ Night Deposit or Automated Teller Machine d ☐ Multiple Transactions e ☐ Conducted On Own Behalf

15 Individual's last name | 16 First name | 17 Middle initial

18 Address (number, street, and apt. or suite no.) | 19 SSN

20 City | 21 State | 22 ZIP code | 23 Country code (if not U.S.) | 24 Date of birth MM DD YYYY

25 If an individual, describe method used to verify identity: a ☐ Driver's license/State I.D. b ☐ Passport c ☐ Alien registration

d ☐ Other | e Issued by: | f Number:

Part II Amount and Type of Transaction(s). Check all boxes that apply.

26 Total cash in $ 0.00 | 27 Total cash out $ 0.00 | 28 Date of transaction MM DD YYYY

26a Foreign cash in 0.00 (see instructions, page 4) | 27a Foreign cash out 0.00 (see instructions, page 4)

29 ☐ Foreign Country: | 30 ☐ Wire Transfer(s) | 31 ☐ Negotiable Instrument(s) Purchased

32 ☐ Negotiable Instrument(s) Cashed | 33 ☐ Currency Exchange(s) | 34 ☐ Deposit(s)/Withdrawal(s)

35 ☐ Account Number(s) Affected (if any): | 36 ☐ Other (specify)

Part III Financial Institution Where Transaction(s) Takes Place

37 Name of financial institution | Enter Regulator or BSA Examiner code number (see instructions)

38 Address (number, street, and apt. or suite no.) | 39 EIN or SSN

40 City | 41 State | 42 ZIP code | 43 Routing (MICR) Number

Sign Here ▶ 44 Title of approving official | 45 Signature of approving official | 46 Date of signature MM DD YYYY

47 Type or print preparer's name | 48 Type or print name of person to contact | 49 Telephone number ( ) - -

▶ For Paperwork Reduction Act Notice, see page 4. | Cat. No. 37526X | FinCEN Form 104 (Rev. 03-2011)

The Reporting Forms
The Currency Transaction Report (CTR) Form:

This Currency Transaction Report should NOT be filed for suspicious transactions involving $10,000 or less in currency OR to note that a transaction of more than $10,000 is suspicious.

If a transaction is suspicious and in excess of $10,000 in currency, then both a CTR and the appropriate Suspicious Activity Report (SAR) form must be filed.

Activity Afoot: In situations involving suspicious transactions requiring immediate attention, such as when a reportable transaction is ongoing, the fianacial institution shall immediately notify, by telephone, appropriate law enforcement and regulatory authorities in addition to filing a timely suspicious activity report.

Who Must File. Each financial institution must file a CTR for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction in currency of more than $10,000.

Multiple transactions must be treated as a single transaction if the financial institution has knowledge that (1) they are by or on behalf of the same person, and (2) they result in either currency received (Cash In) or

currency disbursed (Cash Out) by the financial institution totaling more than $10,000 during any one business day. A business day is a calendar day.

When and Where To File: Bank Secrecy Act E-filing System: http: //bsaefiling.fincen.treas.gov/index.jsp to register. This form is available at www.dowdalllaw.com ➔ "resources" ➔ "codes and regulations" ➔"federal law" ➔*"CTR Form, Currency Transaction Report Form*." The form is also available at for download at the finCEN site at www.fincen.gov, or may be ordered by calling the IRS Forms Distribution Center at (800) 829-3676. File this CTR by the 15th calendar day after the day of the transaction with the: Enterprise Computing Center - Detroit, ATTN: CTR, P.O. Box 33604, Detroit, MI 48232-5604. Keep a copy of each CTR for five years from the date filed.

Electronic Filing Option: To obtain an application to file electronically, email BSAEFilingHelp@fincen.gov or go to http: //bsaefiling.fincen.treas.gov/ main.html to register.

● Identification Requirements

All individuals conducting a reportable transaction(s) for themselves or for another person, must be identified by means of an official document(s). Acceptable forms of identification include driver's license, military and military/dependent identification cards, passport, state issued identification card, cedular card (foreign), non-resident alien identification cards, or any other identification document or documents, which contain name and preferably address and a photograph and are normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers.

Acceptable identification information obtained previously and maintained in the financial institution's records may be used. For example, if documents verifying an individual's identity were examined and recorded on a signature card when tenancy was established, management may rely on that information. In completing the CTR, management must indicate on the form the method, type, and number of the identification. Statements such as "known person or tenant" or "signature card on file" are not sufficient for form completion.

Penalties: Civil and criminal penalties are provided for failure to file a CTR or to supply information or for filing a false or fraudulent CTR. See 31 U.S.C. 5321, 5322 and 5324.

● Conclusion

The federal government has determined that the possibilities for fraud, suspicious activity, money laundering, terrorist activity, and all manner of nefarious activity are rampant in manufactured housing communities. *Res Ipsa Loquitur*.

In the unswerving desire to regulate absolutely everything, park owners who make loans must now comply with the new finCEN rules, and develop AML programs with reporting duties for suspicious activity, cash transactions of $10,000.00 or more, and record retention. Now, most park owners do not accept cash for any purpose or reason. This an obviously wise practice for many reasons and helps to diminish the risks posed by the federally-expressed concerns. However, all the foregoing issues are applicable to affected park owners. Appropriate review of the requirements for each park owner's practices and methods should be made to be assured of compliance with these new regulations. Our systematic approach to compliance will provide our clients with a comprehensive and compliant program at modest cost.

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Please feel free to contact Terry R. Dowdall, Esq. for further information and questions.