



**Sheshunoff**  
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## CTR Aggregation for Businesses with Common Ownership

FinCEN recently issued guidance clarifying its 2001-2 ruling regarding the aggregation of currency transactions for businesses that have the appearance of common ownership. This new guidance provides two additional factors to consider when aggregating currency transactions for CTR filings.

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Links: [Guidance](#)  
[FinCEN Ruling 2001-2](#)

Recently, FinCEN issued guidance (FIN-2012-G001) regarding the aggregation of currency transactions for businesses that have different EINs, but may have a common ownership. The aggregation of these currency transactions may lead institutions to file CTRs for multiple businesses, when aggregating based on more than just the business' EIN. This guidance clarifies FinCEN previous 2001-2 ruling regarding this unique aggregation for common ownership.

### What did the 2001-2 Ruling require?

This ruling establishes that a financial institution should aggregate multiple transactions for the purpose of CTR filing if the institution has knowledge that the transactions are by or on behalf of different entities with a common owner or owners. The fact that different businesses are owned by the same person does not itself trigger the aggregation of their individual currency transactions for the purposes of determining if a CTR is required. However, common ownership of businesses may be a relevant factor when determining if currency transactions are to be aggregated for a possible CTR filing.

To determine if multiple businesses are operated independently of each other, consider whether:

- The business is staffed by the same employees;
- The bank accounts are used to pay the expenses, including payroll, of the other related businesses; or
- The bank accounts are used to pay the personal expenses of the owner(s) of the related businesses.

All of these factors were present in the factual situation presented to FinCEN in its 2001-2 ruling. As a result, FinCEN determined that the businesses were not independent of each other and therefore, their currency transactions had to be aggregated for CTR filing purposes.

### What does the 2012-G001 guidance change about the 2001-2 Ruling?

Now, twelve years later, FinCEN is issuing additional guidance on the criteria to be considered when a financial institution is determining if a CTR is required for businesses with common ownership. The 2001-2 ruling required a financial institution to aggregate multiple currency transactions if it had knowledge that the transactions are for or on behalf of the same person. The 2012-G001 guidance further explains this requirement and adds additional criteria when making a determination.

#### Did the same person conduct the transactions?

One of the additional criteria established in the new guidance is whether there was a same depositor. For example, if the same person brings in cash deposits totaling \$11,000 during two different transactions in one day, deposits \$5,000 to his personal account and \$6,000 to his employer's business account, the financial institution has knowledge that the same person conducted the transaction. In this case, the financial institution is required to file a CTR. However, the CTR should be filled out to include two Section A's for both persons/entities on whose behalf the transactions were conducted. The remaining parts of the CTR should be filled out according to the form instructions.

#### Are the businesses located at the same address?

The second additional criterion established by the new guidance is whether the businesses are located at the same address. Once a financial institution determines that the businesses are not independent of each other or their common owner then the transactions of these businesses should be aggregated going forward for purposes of CTR filing.

#### Did FinCEN provide an example that further outlines this new guidance?

Yes. Financial institution knows that Company A and Company B have the same owner, separate EINs, operate out of the same address, and continually comingle funds between their separate accounts. Because of this information, financial institution has

determined that Company A and Company B are not independent of each other. One day, an employee of Company A deposits \$6,000 into the account of Company A. That same business day, an employee of Company B deposits \$5,000 into the account of Company B. Because the financial institution has determined that the businesses are not independent of each other, a CTR should be filed listing Company A and Company B in separate sections indentifying the person(s) on whose behalf the transaction is conducted and listing a cash-in deposit of \$11,000. The remaining sections of the CTR should be filled out according to the form instructions.

## **Recommendations for Next Steps**

1. Update BSA procedures to include the criteria listed above that may indicate that businesses are not operating separately, or independently of each other.
2. Provide additional training to applicable staff, as well as the department responsible for CTR filing to ensure that appropriate areas are aware of how to aggregate CTRs for filing purposes.
3. As a best practice, start a tracking list of all businesses that are deemed by the financial institution as being 'related' for the purposes of CTR filing.