



# *Designation of Exempt Person (DOEP) & Currency Transaction Reporting (CTR)*

Assessing the Impact of Amendments to the CTR  
Exemption Rules Implemented on January 5, 2009  
July 2010





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# Purpose

The Financial Crimes Enforcement Network (FinCEN) has committed to providing affected industries with written feedback within 18 months of the effective date of new regulations, or significant changes to existing regulations, as part of its efforts to provide efficient and effective administration of the Bank Secrecy Act (BSA).<sup>1</sup> On December 5, 2008, FinCEN published a final rule that became effective on January 5, 2009, the Amendment to the Bank Secrecy Act Regulations—Exemptions from the Requirement to Report Transactions in Currency (CTRs), hereafter referred to as the 2009 CTR Exemption Rule.<sup>2</sup> The reporting by financial institutions of transactions in currency in excess of \$10,000 has long been a major component of the Department of the Treasury's implementation of the BSA.<sup>3</sup> The amendment was intended to simplify the process by which financial institutions can exempt the transactions of certain customers from the requirement to report transactions in currency in excess of \$10,000. The amendment also aimed to reduce the cost of the exemption process to depository institutions while enhancing the value and utility of CTR filings for law enforcement investigative purposes. These needs were highlighted in a 2008 United States Government Accountability Office (GAO) report.<sup>4</sup>

The primary purpose of this report is to assess the effectiveness of FinCEN's rulemaking in meeting these important objectives. To make this assessment, this report highlights key findings from parallel and complementary analyses based upon trends in BSA filings, inquiries from financial institutions to FinCEN's Regulatory Helpline, and other sources of industry feedback.

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1. The BSA is codified in part at 31 U.S.C. § 5311 et seq. Rules implementing the BSA appear at 31 CFR Part 103.
  2. [http://www.fincen.gov/statutes\\_regs/frn/pdf/frnCTRExemptions.pdf](http://www.fincen.gov/statutes_regs/frn/pdf/frnCTRExemptions.pdf). The two reports affected by the amended rules were the Currency Transaction Report (FinCEN Form 104) or CTR and the Designation of Exempt Person (FinCEN Form 110) or DOEP.
  3. See 31 U.S.C. § 5313(a) and 31 CFR § 103.22.
  4. See "Bank Secrecy Act: Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts" GAO-08-355 (GAO: Washington, DC: Feb. 21, 2008) <http://www.gao.gov/new.items/d08355.pdf>.

More generally, as FinCEN provides this and other feedback to the industry on changes to its regulations and/or trends it finds in overall BSA filings, FinCEN encourages financial institutions to respond with reactions and comments to these products. FinCEN provides this information so that financial institutions can improve the effectiveness and efficiency of their BSA and general fraud programs. Accordingly FinCEN wants to make these products as beneficial to industry as possible. Please provide FinCEN with any feedback regarding the contents of this study by contacting [Webmaster@fincen.gov](mailto:Webmaster@fincen.gov).



# *Executive Summary*

In December of 2008, FinCEN published a rule intended to simplify and clarify the process by which depository institutions can exempt the transactions of certain persons from the requirement to report transactions in currency in excess of \$10,000. The rule amendments affected the requirements for two FinCEN filings, the CTR and the DOEP. The amendments aimed to reduce the cost of the exemption process to depository institutions by eliminating the need to file DOEPs for certain customers and to enhance the value and utility of the remaining CTR filings for law enforcement investigative purposes by removing filings that FinCEN determined to have little or no value, two key issues raised within a 2008 GAO study on CTR filings. This assessment, issued 18 months after the rule went into effect on January 5, 2009, offers substantial evidence that FinCEN has taken important steps towards addressing these issues.

The positive effects of those changes are most clearly reflected in the number and type of DOEP filings. Overall, FinCEN found that DOEP filings fell 44 percent to the lowest levels ever. Since the rule made DOEP filings unnecessary when the subject is a bank, government agency, or governmental authority, those filings dropped nearly 75 percent in 2009. Those filings should eventually fall to zero, and measuring them is a good indication of the rule's effectiveness.

The rule change retained the initial DOEP filing requirement for certain other customers where FinCEN deemed the DOEP filing would still provide useful information for law enforcement, but significantly reduced the thresholds and simplified the process for making those designations. As a result, the number of initial DOEP filings for these types of customers grew 41.7 percent in 2009, indicating that many institutions understood and were taking advantage of the new streamlined exemption process.

The inquiries that FinCEN's Regulatory Helpline received from financial institutions, along with feedback from recent FinCEN depository institution outreach initiatives, further highlight the growing level of industry understanding and adoption of the amended rules. Additional guidance from FinCEN on the amended requirements has helped increase understanding of the new rules.

The adoption of the amended CTR exemption rules also appears to have helped reduce the overall volume of CTR filings. While economic conditions may account for some of this decrease, FinCEN found that the total number of CTRs filed in 2009 declined nearly 12 percent compared with the previous year, dropping from 15.5 million to 13.7 million. This trend is particularly important as CTRs account for almost 90 percent of financial institutions' annual BSA filings. This decrease was seen among the smallest (13.6 percent year-over-year reduction) and the largest institutions (20.3 percent reduction). As a result, it appears likely that fewer CTR filings are being made on transactions of limited or no use to law enforcement, while the higher value CTRs that remain are becoming easier to identify. Additionally, FinCEN had consulted with law enforcement in developing the proposals, and, to date, law enforcement has not raised any concerns or issues with FinCEN regarding the usefulness or quality of CTR filings as a result of the amended rules.

# Background

To assist law enforcement with combating money laundering, terrorist financing, and financial or other crimes, Congress provided for, and FinCEN implemented regulations to require financial institutions to keep records and file reports of transactions in currency that are greater than \$10,000.<sup>5</sup> Since shortly after the enactment of the BSA, the CTR requirement for depository institutions has been the cornerstone of FinCEN's BSA regulations for 40 years. To reduce the number of CTRs with limited usefulness to law enforcement, the Money Laundering Suppression Act of 1994 authorized the creation of a system that exempts certain depository institution customers from these currency reporting requirements (see Table 1).<sup>6</sup>

**Table 1**

|          | <b>PHASE I EXEMPTION BASIS</b> |  |          | <b>PHASE II EXEMPTION BASIS</b> |
|----------|--------------------------------|--|----------|---------------------------------|
| <b>A</b> | Bank (Depository institutions) |  | <b>E</b> | Eligible non-listed business    |
| <b>B</b> | Government agency/authority    |  | <b>F</b> | Payroll customer                |
| <b>C</b> | Listed company                 |  |          |                                 |
| <b>D</b> | Listed company subsidiary      |  |          |                                 |

As summarized in Table 1, under the first exemption basis or type, commonly called Phase I exemptions, depository institutions<sup>7</sup> have the ability to exempt currency transactions with: (A) other depository institutions; (B) a department or agency of the United States or any State or an entity which exercises governmental authority on behalf of the United States or any State; (C) entities who are publicly traded or

5. See 31 U.S.C. § 5313(a) and 31 CFR § 103.22.

6. These exemptions have been incorporated into FinCEN's regulations at 31 CFR § 103.22(d). Under the Money Laundering Suppression Act of 1994 (MLSA) Phase I exemptions, effective in May 1996, apply to banks, governmental departments or agencies, and publicly listed companies and their subsidiaries. Certain businesses that do not fall into any of the Phase I categories may still be exempted under Phase II if they qualify as either a "non-listed business" or as a "payroll customer." Certain businesses and all individuals are precluded from consideration as an exempt person.

7. While all entities described under 31 CFR § 103.11(n) as "financial institutions" are required to file currency transaction reports, the exemption provisions at 31 CFR § 103.22(d) apply only to depository institutions or "banks" as defined at 31 CFR § 103.11(c).

listed on one of the major national stock exchanges; and, (D) certain subsidiaries of those publicly traded entities. Under the second exemption type, commonly called Phase II exemptions, depository institutions can exempt transactions of (E) non-listed business<sup>8</sup> or (F) payroll customers that maintain a transaction account and frequently engage in transactions that are subject to currency transaction reporting.

Prior to the 2009 CTR Exemption Rule, depository institutions submitted DOEP filings for one of five reasons (see Table 2): (A) to initially exempt a customer; (B) to renew an exempted Phase II customer's exemption every two years; (C) to amend a customer's exemption; (D) to revoke a customer's exemption; and (E) to report a change in ownership or control of the exempted customer.

**Table 2**

| <b>DOEP FILING TYPES</b> |                     |
|--------------------------|---------------------|
| <b>A</b>                 | Initial Designation |
| <b>B</b>                 | Biennial Renewal    |
| <b>C</b>                 | Exemption Amended   |
| <b>D</b>                 | Exemption Revoked   |
| <b>E</b>                 | Change in Control   |

In 2008, as required under the Financial Services Regulatory Relief Act of 2006, the GAO conducted a study of CTRs to determine their usefulness to law enforcement, the costs to depository institutions, and whether modifications to the process could be made.<sup>9</sup> This report found that CTRs provide unique and reliable information in support of law enforcement investigations, and that CTRs force criminals, trying to avoid reporting requirements, to act in ways that will increase their chances of being detected. GAO also noted, however, that routine reporting of some types of large currency transactions does not necessarily aid law enforcement authorities and may place unnecessary costs on depository institutions. The report cited the following ways in which the currency exemption process could be improved: (1) remove the regulatory reporting requirement that depository institutions biennially renew Phase II exemptions; (2) remove the regulatory requirement that depository institutions file exemption forms and annually review the supporting information for banks; federal, state, and local governmental agencies; and entities exercising federal, state, and

8. 31 CFR § 103.22(d)(5)(iii) lists recognized stock exchanges. 31 CFR § 103.22(d)(2)(vi) defines non-listed businesses as businesses not listed on those exchanges.

9. See GAO-08-355.

local governmental authority; and (3) consider changing the regulatory provisions to permit depository institutions to exempt otherwise-eligible non-listed business customers who frequently engage in large cash transactions within a period of time shorter than 12 months.<sup>10</sup>

To simplify the exemption requirements and further encourage use of the exemption, as recommended by the GAO report and consistent with FinCEN's efforts to enhance the overall efficiency and effectiveness of its regulations, FinCEN issued the 2009 CTR Exemption Rule, amending the BSA regulation that allows depository institutions to exempt transactions of certain persons from the requirement to report transactions in currency in excess of \$10,000. The final rule amended 31 CFR 103.22(d) by removing the requirement to file a DOEP form for depository institutions, a department or agency of the United States or any state, and an entity which exercises governmental authority on behalf of the United States or any state (see Chart 1). FinCEN also removed the requirement to conduct an annual review for those same customers. The final rule did not extend these changes to listed businesses, because a publicly traded company can privatize and lose its eligibility for Phase I exemption, unlike the other categories of Phase I customers.

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10. Ibid.

**Chart 1*****Phase I Exemptions - the original provision***

Phase I exempt persons include depository institutions (to the extent of their domestic operations); federal, state or local government agencies; entities existing under governmental authority within the United States; entities whose common stock is listed on U. S. stock exchanges (with some exceptions); and subsidiaries of “listed entities” organized under United States law where at least 51% of the common stock is owned by the listed entity. To exempt a customer under Phase I, *a depository institution was required to file a one-time Designation of Exempt Person form within 30 days after the first transaction by the customer that the depository institution wished to exempt. The depository institution was required to conduct an annual review of the information supporting each Phase I exempted person.*

***The Amendments***

- Initial designations are no longer required by Phase I customers that are depository institutions, Federal, state or local governments, or entities exercising government authority.
- Institutions are no longer required to conduct an annual review of their continued eligibility.
- This change did not extend to Phase I customers who are listed companies or their subsidiaries.

The final rule also changed the suitability requirements for Phase II exemptions. Instead of a strict 12-month waiting period, the new rule entails a bifurcated risk-based model (see Chart 2). Under the new model, a Phase II customer becomes eligible for exemption after two months, or, alternatively, on a risk-assessed basis any time after the institution conducts analysis and determines that the customer has a legitimate business purpose for conducting frequent and/or large transactions. This change takes into account the increased knowledge that banks may have of their customers in light of customer identification program requirements, as well as the increased sophistication banks generally possess to conduct due diligence in understanding the nature of their customer relationships. Based on the reduced waiting period, FinCEN also shortened its interpretation of the term “frequently” to mean that a non-listed business customer must conduct five or more transactions annually before it becomes eligible

for exemption rather than the previous eight or more transactions each year. Lastly, the final rule provided relief by removing the requirements to file a biennial renewal or report a change in control of the exempted customer and clarifying that reporting a revocation of exemption continues to be voluntary.

### **Chart 2**

#### ***Phase II Exemptions - the original provision***

Phase II exemptions (with the exclusion of certain ineligible businesses) include qualified businesses that do not fall into any of the Phase I categories, such as “non-listed businesses” and payroll companies. In order to qualify for a Phase II exemption, *the business must have maintained its account at the exempting depository institution for at least 12 months; frequently engaged in currency transactions in excess of \$10,000; and be incorporated or recognized under the laws of the United States or a State, or be registered and able to do business within the United States or a State. In addition to the annual review requirement set forth under Phase I exemptions, depository institutions must re-file the DOEP form every two years as part of a biennial renewal process.*

#### ***The Amendments***

- The 12-month waiting period was changed to two months, or upon conducting a risk-based analysis.
- The definition of “frequently” engaging in transactions by Phase II customers was changed from 8 or more transactions per year to 5 or more transactions per year (if the customer has maintained a transaction account for two months, or it conducts a risk based analysis.)
- Biennial filings are no longer required.
- Change in control need no longer be reported.

To help depository institutions better understand and adopt the rule changes that took effect on January 5, 2009, FinCEN published additional guidance in April and August 2009.<sup>11</sup> In coordination with the Federal Financial Institution Examination Council (FFIEC), additional guidance and information was published in the 2010 FFIEC *Bank Secrecy Act/Anti-Money Laundering (BSA/AML) Examination Manual*.<sup>12</sup>

Taken together, FinCEN's rule changes not only implemented the relevant GAO recommendations but also effectively employed FinCEN's exemptive authority to promote greater use of depository institutions' ability to exempt certain customers' transactions from CTR filing requirements. The expanded exemptions also helped decrease the likelihood that depository institutions would file CTRs on transactions of less interest or value to law enforcement investigations.

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11. On April 27, 2009, FinCEN issued "Guidance on Supporting Information Suitable for Determining the Portion of a Business Customer's Annual Gross Revenues that is Derived from Activities Ineligible for Exemption from Currency Transaction Reporting Requirements" (FIN-2009-G001), hereafter referred to as the April 2009 Guidance; see [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2009-g001.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-g001.html). On August 30, 2009, FinCEN issued "Guidance on Determining Eligibility for Exemption from Currency Transaction Reporting Requirements" (FIN-2009-G003), hereafter referred to as the August 2009 Guidance; see [http://www.fincen.gov/statutes\\_regs/guidance/pdf/fin-2009-g003.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-g003.pdf)

12. See [http://www.fincen.gov/news\\_room/nr/html/20100429.html](http://www.fincen.gov/news_room/nr/html/20100429.html).



# Methodology

To help assess the effects of FinCEN's 2009 CTR Exemption Rule on financial institutions, FinCEN analyzed a number of different data sources and assessed associated industry feedback and inquiries.

## ***Analysis of DOEP and CTR Data***

To examine the relative impact of the 2009 CTR Exemption Rule upon DOEP and CTR filings by depository institutions of different sizes, FinCEN sampled filings by both small and large institutions, based on asset size. The results of these samples were then compared with the results from the general population.<sup>13</sup>

For this study, FinCEN defined the small-asset class as institutions with less than \$50 million in assets.<sup>14</sup> This group included 6,993 institutions - 5,769 credit unions from the NCUA membership, and 1,224 banks from the FDIC membership list - from all 50 states, the District of Columbia, Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The membership lists were current as of December 30, 2009. A random sample of 553 depository institutions, stratified by state/jurisdiction, from this combined list was examined to provide a confidence level of 95 percent that is accurate within +/- 4 percent.

Similarly, analysts examined DOEP and CTR filings from a sample of larger institutions in the two-year period to assess the rule revision's effect on the largest filers. FinCEN defined the large-asset class as institutions with at least \$20 billion in assets. This group included only 60 institutions: 1 credit union and 59 banks. Using FDIC and NCUA membership lists as identified above, FinCEN analysts performed a random quota sample of 25 depository institutions from this combined list. It should

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13. FinCEN analysts used data from the Federal Deposit Insurance Corporation (FDIC) to determine the asset sizes of banks, and similar data from the National Credit Union Administration (NCUA) to determine the asset sizes of credit unions. These samples represent only member institutions of the FDIC or NCUA.

14. GAO-08-355 defined small-asset banks as those with less than \$100,000,000 in assets, but small-asset credit unions as those with less than \$10,000,000 in assets. For the purposes of this study, FinCEN defined all small-asset institutions as those with less than \$50,000,000 in assets, because the impact of the rule revision on a small institution should not be significantly different for small banks than for small credit unions.

be noted that a quota sample of this type does not provide the confidence level of a random sample, and should not be used for statistical comparison. Rather, it gives examples of the filing patterns of some institutions of this size that may or may not be representative of all large-asset filers.

### ***Analysis of Regulatory Helpline Inquiries<sup>15</sup> and Other Feedback***

FinCEN retrieved Regulatory Helpline CTR exemption inquiries received in the 12 months prior to and the 12 months following the effective date of the 2009 CTR Exemption Rule, as well as in the first quarter of 2010. FinCEN reviewed the 1,431 CTR exemption inquiries received from depository institutions, regulators, individuals, and other financial institutions. FinCEN compiled the results to identify the quantity and nature of these inquiries and the most common CTR exemption questions as well as assess the level of financial institution awareness, understanding, and adoption of the 2009 CTR Exemption Rule and subsequent guidance.

FinCEN also assessed the feedback received during recent outreach visits with both large and small depository institutions located across the country and sought feedback from law enforcement officials on their perceptions of the effects of the rule changes.

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15. FinCEN's Regulatory Helpline is the primary means for the financial industry to obtain regulatory information and answers to specific questions related to the BSA and USA PATRIOT Act. Financial institutions can contact the Regulatory Helpline at 800-949-2732. All Regulatory Helpline information within this publication has been aggregated to ensure the confidentiality of individual inquiries.

# Research & Analysis

## Analysis of DOEP Filings

*Overall, exemption designations fell 44 percent after the 2009 Exemption Rule went into effect, largely due to the elimination of the requirements for filing biennial renewals for Phase II customers and initial exemption designations for certain Phase I customers.*

In the twelve months after the 2009 CTR Exemption Rule became effective, DOEP filings fell 44 percent. This large reduction appears to be most associated with the elimination of the requirements for biennial exemption renewals for Phase II customers and initial designation of certain Phase I customers, such as depository institutions and government agencies. Other rule changes intended to enhance a depository institution's ability to exempt more customers from CTR filing requirements on their transactions, increased the number of initial exemption designations for Phase II customers by 42 percent; that increase was not enough, however, to outweigh the overall decrease in all other DOEP filings (see Table 3).

**Table 3**

| <i>All Filers</i>        | <i>2008</i>   | <i>2009</i>   | <i>Annual percentage change</i> |
|--------------------------|---------------|---------------|---------------------------------|
| <b>Total DOEPs Filed</b> | <b>53,092</b> | <b>29,732</b> | <b>-44%</b>                     |
| <b>Exemption Type:</b>   |               |               |                                 |
| Biennial Renewal         | <b>20,550</b> | <b>3,075</b>  | <b>-85%</b>                     |
| Exemption Amended        | <b>4,837</b>  | <b>1,957</b>  | <b>-60%</b>                     |
| Exemption Revoked        | <b>7,672</b>  | <b>5,195</b>  | <b>-32%</b>                     |
| Initial Designation*     | <b>19,782</b> | <b>19,342</b> | <b>-2%</b>                      |
| Phase I Exemption Basis  | <b>7,528</b>  | <b>1,984</b>  | <b>-74%</b>                     |
| Phase II Exemption Basis | <b>12,191</b> | <b>17,311</b> | <b>42%</b>                      |
| Change in Control        | <b>274</b>    | <b>75</b>     | <b>-73%</b>                     |

\* Total Initial Designations are more than the sum of Phase I and Phase II filings because a number of DOEPs were submitted with the Exemption Basis left blank.

## DOEP Annual Filing Totals

Table 4 below, displays the total number of DOEP forms filed between 1999 and the first quarter of 2010.<sup>16</sup> Note that the number of 2009 filings is an all-time low.

**Table 4**

| <b>Designation of Exempt Persons<br/>(1999–2010)</b>                    |              |                                 |
|---|--------------|---------------------------------|
| <b>YEAR</b>   | <b>DOEPs</b> | <b>Annual percentage change</b> |
| 1999  | 37,638       | N/A                             |
| 2000 <sup>17</sup>  | 153,829      | 309%                            |
| 2001  | 69,334       | -55%                            |
| 2002 <sup>18</sup>  | 72,689       | 5%                              |
| 2003  | 56,496       | -22%                            |
| 2004  | 68,224       | 21%                             |
| 2005  | 69,846       | 2%                              |
| 2006  | 62,322       | -11%                            |
| 2007  | 60,091       | -4%                             |
| 2008  | 53,092       | -12%                            |
| 2009  | 29,732       | -44%                            |
| 2010 (1st qtr)  | 7,070        | -47%*                           |
| *as of April 30, 2010; percentage change from first four months of 2009 |              |                                 |

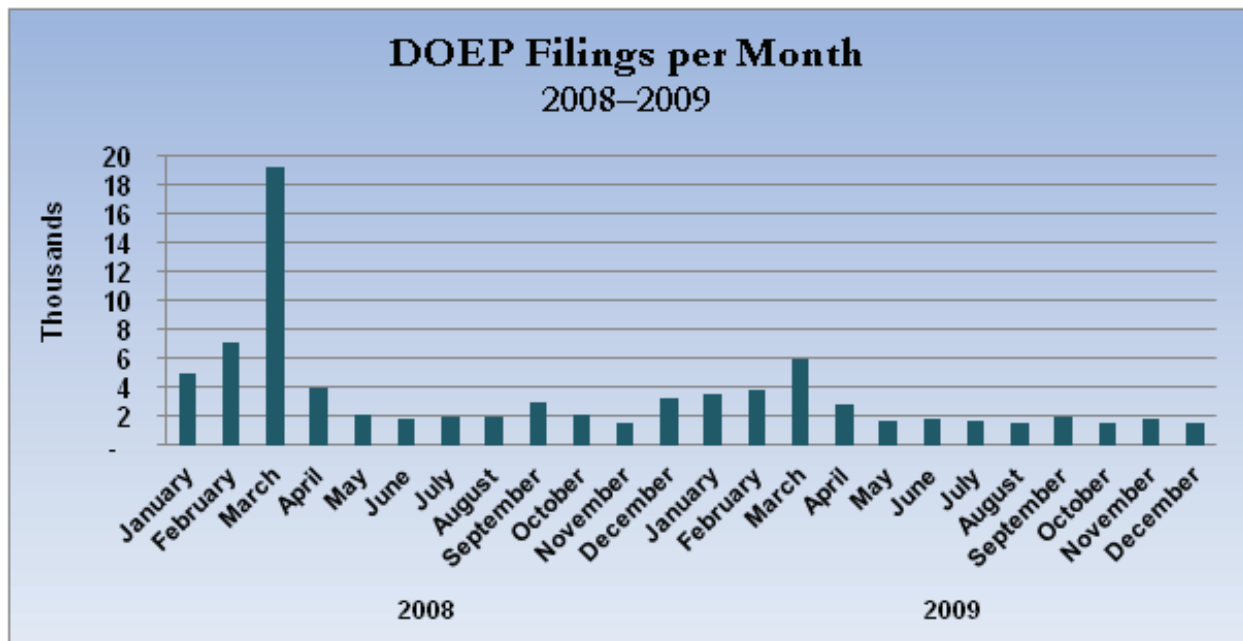
## DOEP Filings in 2008 and 2009

The elimination of the requirement for biennial renewal filings under the 2009 CTR Exemption Rule was the primary catalyst for the 44 percent drop in all DOEP filings from 2008 to 2009 (see Chart 3). The spike in filings in March of 2008 represents Phase II customer biennial renewal filings submitted early in the calendar year, due to the previous CTR exemption rules' March 15 annual deadline. From 2008 to 2009, there was an 85 percent decrease in all biennial renewals. In 2009, filers reported 2,625 of

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16. Although the initial regulation supporting the exemption process was finalized in September 1998, institutions were first allowed to begin filing exemptions as of January 1999.
  17. Calendar year 2000 was the first **full year** in which many institutions utilized the exemption process and DOEP form, which would account for the large number of DOEP filings.
  18. This increase may have been due in part to depository institutions uneasiness or unwillingness to exempt certain customers after September 11th, 2001, suspicions of terrorist money movement, and/or the advent of the USA PATRIOT Act. However, the enormous number of filings in 2000 was the real anomaly.

the annual total of 3,075 biennial renewals within the first three months of the year. This appears to indicate that some depository institutions had not yet become aware of the new rule changes within the first quarter of 2009. Although not reflected on this chart, biennial renewals in the first quarter of 2010 fell to a total of 351 filings, a 75 percent reduction compared with the first three months in 2009. This indicates that, while some filers still had not yet become fully aware of the elimination of the biennial renewal filing requirement, the number was shrinking. As more depository institutions become familiar with these rule changes, all biennial renewals eventually should be eliminated.

Chart 3



Charts 4 and 5 show the percentages of filing types in 2008 and 2009 (see background section for description). In 2008, the most common reason for filing was biennial renewal. In 2009, initial designations made up over 65 percent of all DOEP filings.

Chart 4

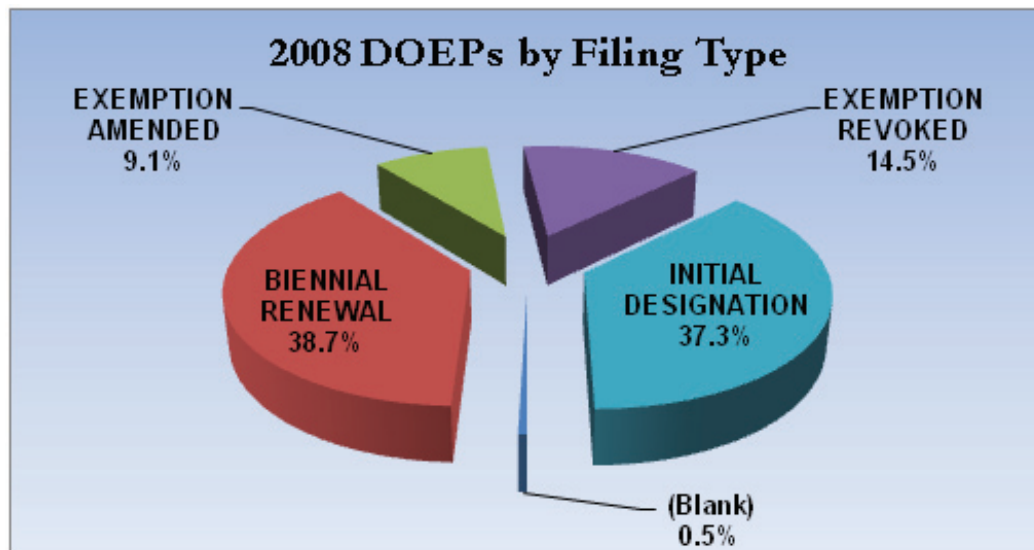
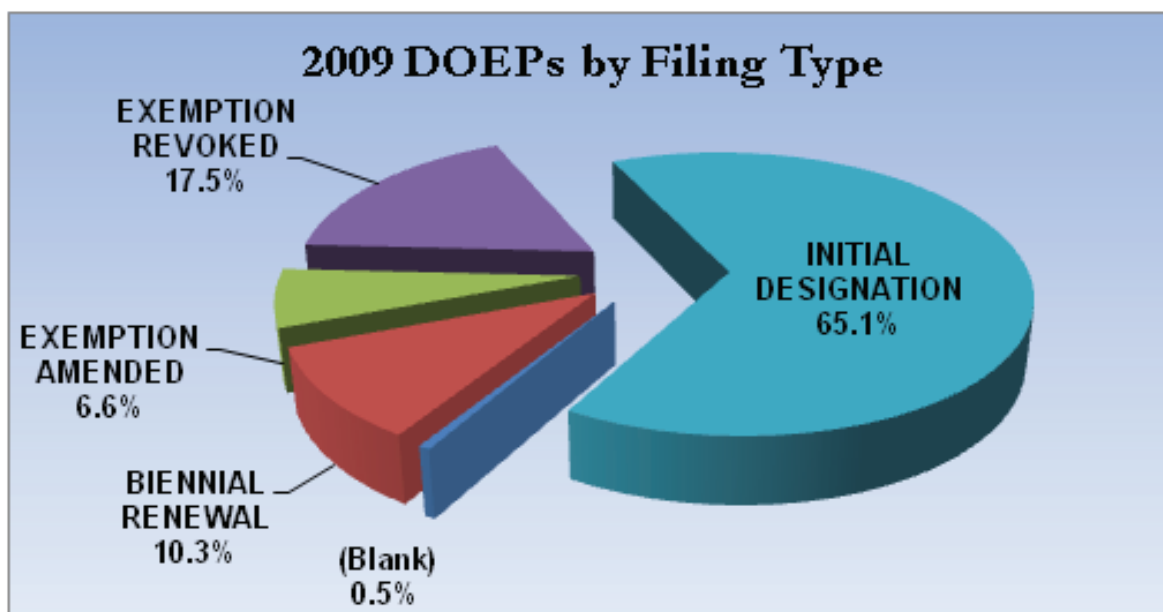
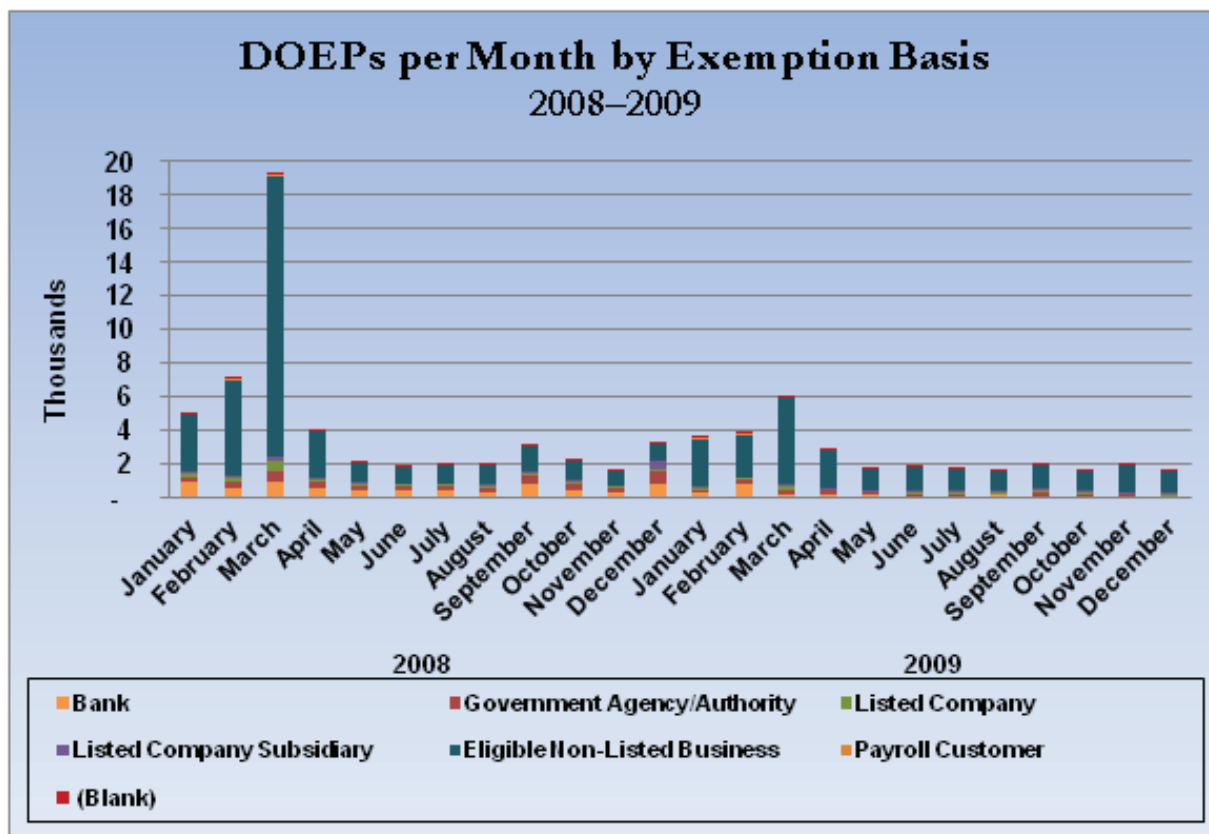


Chart 5



The March 2008 spike in biennial renewals also is reflected in Chart 6, which shows the monthly filings by exemption basis (as discussed in the background section of this report). The chart also shows that the bulk of exemption subjects in 2009 continued to be eligible non-listed businesses. As expected, the largest drop (over 62 percent) was in filings on banks, government agencies and government authorities, but filings declined for each exemption basis.

**Chart 6**



As shown in Table 5, filings for each exemption basis decreased significantly among the complete group of DOEPs. The largest decreases occurred in Phase I filings, where banks, government agencies, and governmental authorities no longer require a DOEP filing.

**Table 5**

| <i>All Filers</i>                      | <i>2008</i>   | <i>2009</i>   | <i>Annual percentage change</i> |
|--|---------------|---------------|---------------------------------|
| <b>Total DOEPs Filed</b>               | <b>53,092</b> | <b>29,732</b> | <b>-44%</b>                     |
| <b>Exemption Basis:</b>                |               |               |                                 |
| Blank                                  | 390           | 287           | -26%                            |
| A) Bank                                | 6,935         | 2,182         | -69%                            |
| B) Government agency/authority         | 4,411         | 1,675         | -62%                            |
| C) Listed company                      | 2,086         | 1,347         | -35%                            |
| D) Listed company sub.                 | 1,698         | 1,086         | -36%                            |
| E) Eligible non-listed bus.            | 37,448        | 23,071        | -38%                            |
| F) Payroll customer                    | 124           | 84            | -32%                            |
| <b>Total Phase I Filings (A+B+C+D)</b> | <b>15,130</b> | <b>6,290</b>  | <b>-58%</b>                     |
| <b>Total Phase II Filings (E+F)</b>    | <b>37,572</b> | <b>23,155</b> | <b>-38%</b>                     |



Charts 7 and 8 provide specific breakdowns of the DOEP filings in 2008 and 2009 by the basis upon which the exemption was established. The most significant changes related to an increase in filings for eligible non-listed businesses and a decrease for banks, highlighting the effects of the rule change.

**Chart 7**

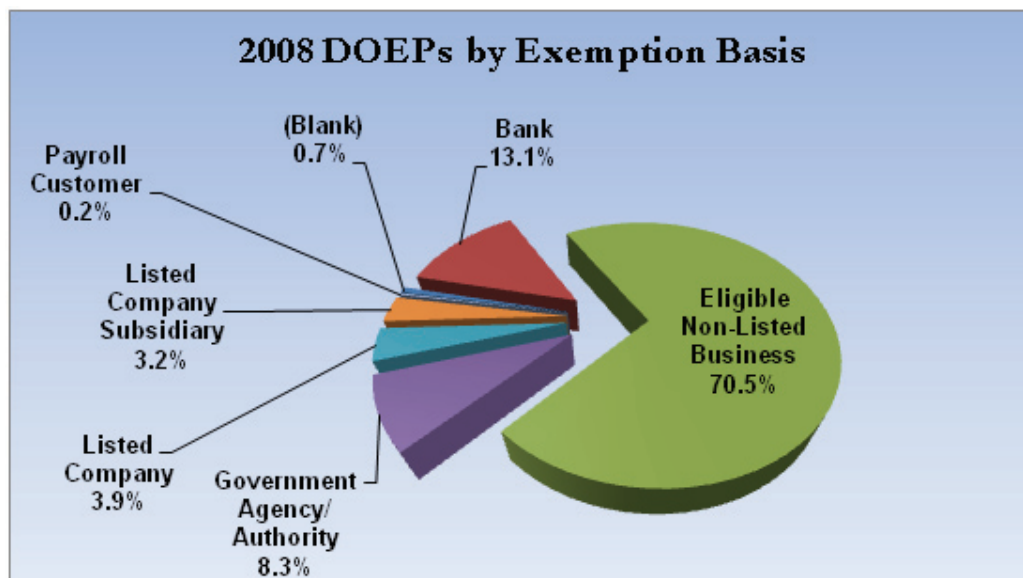
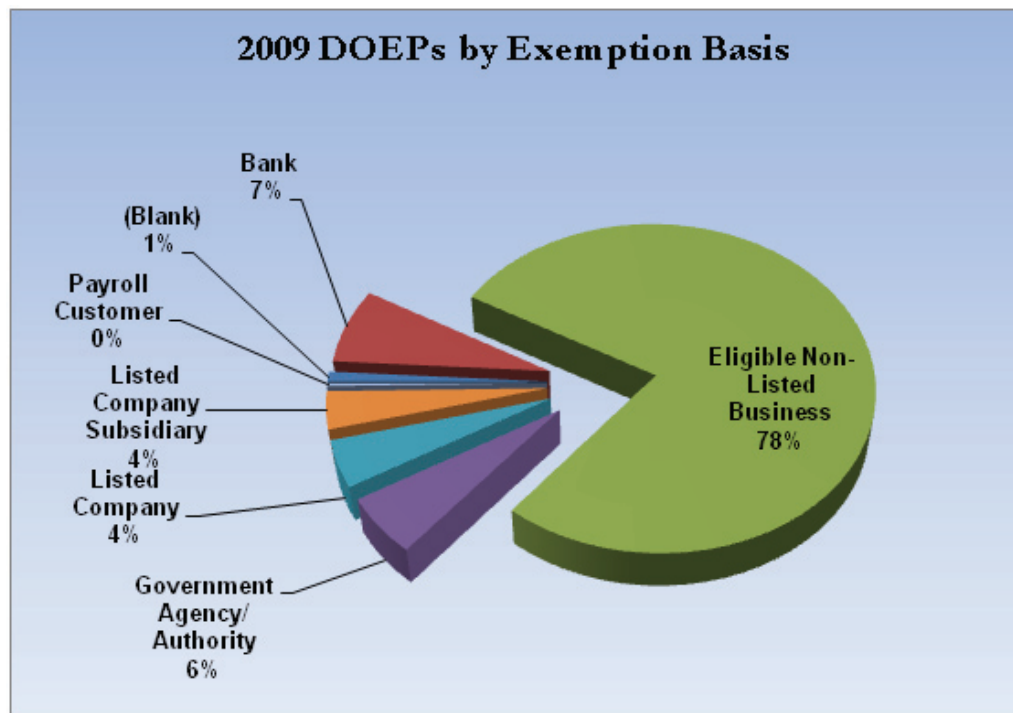


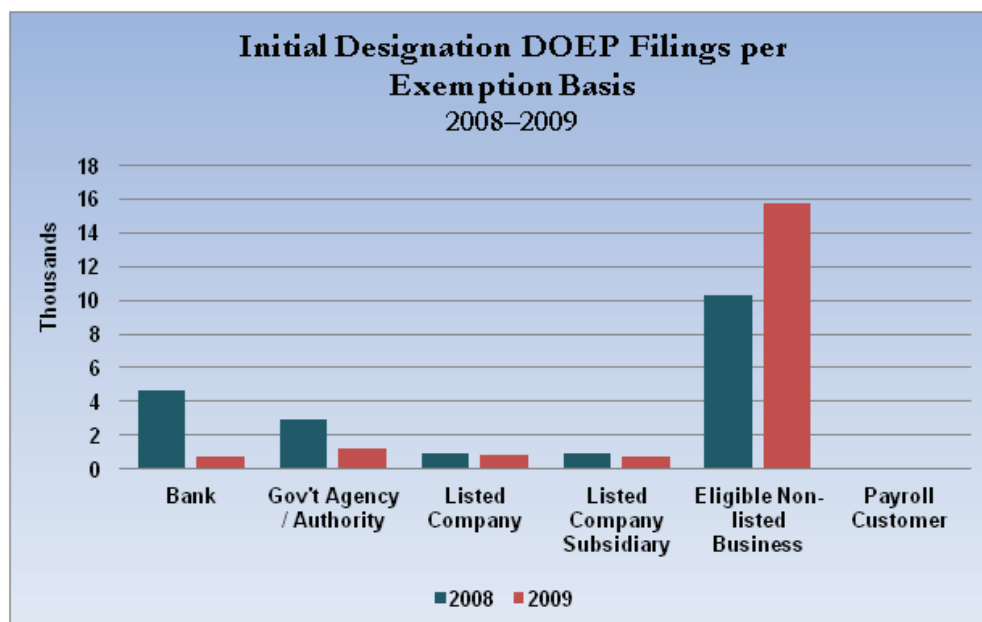
Chart 8



The totals for initial designation DOEP filings, which are still mandated for exemptions C, D, E, and F,<sup>19</sup> declined from 19,528 in 2008 to 19,342 in 2009, a drop of 2.2 percent. Every basis of exemption decreased except eligible non-listed businesses. Where the subject is a bank, government agency, or governmental authority, initial designation filings on these categories dropped 73.6 percent in 2009. Of the subjects for which initial designation DOEP filings are still required, the number grew 41.7 percent from 2008 to 2009. Chart 9 breaks out the initial designation filing for each exemption category for these two years. Most notably, initial designations for eligible non-listed businesses increased 52.8 percent. This suggests that banks have a clearer understanding of the amended exemption process and have become more comfortable taking advantage of the opportunity to exempt certain customers from CTR filing requirements.

19. See Table 1 and accompanying text for descriptions of exemptions.

Chart 9



## ***Comparison of small- and large-asset institution DOEP filings<sup>20</sup>***

### ***The Small-Asset-Institution DOEP Sample***

Our sample study revealed that the 6,993 small-asset institutions filed approximately 4.9 percent (or 2,618 filings) of all 2008 DOEPs and 4.6 percent (1,353) of all 2009 DOEPs; a decrease of 48.3 percent in absolute terms, or slightly more than the 44 percent overall reduction. Table 6 displays the DOEP filing patterns of the sample small-asset populations from 2008 to 2009.

20. See the Methodology section for information about the size and make-up of the small-asset and large-asset institution samples.

**Table 6**

| <b>Small-Asset<br/>Sample Filers</b> | <b>Small-Asset<br/>DOEPs Filings</b> |              |               | <b>Small-Asset Percentage of<br/>the Total Population</b> |             |               |
|--------------------------------------|--------------------------------------|--------------|---------------|---|-------------|---------------|
|                                      | <b>2008</b>                          | <b>2009</b>  | <b>Change</b> | <b>2008</b>   | <b>2009</b> | <b>Change</b> |
| <b>Total DOEPs Filed</b>             | 2,618                                | 1,353        | -48.3%        | 4.9%  | 4.6%        | -7.7%         |
| <b>Exemption Basis:</b>              |                                      |              |               |   |             |               |
| A) Bank                              | 33.7%                                | 15.0%        | -76.5%        | 12.4%   | 9.3%        | -25.2%        |
| B) Government agency/<br>authority   | 1.5%                                 | 4.7%         | 66.7%         | 0.9%  | 3.8%        | 338.9%        |
| C) Listed company                    | 16.3%                                | 2.8%         | -90.9%        | 20.0%   | 2.8%        | -85.9%        |
| D) Listed company<br>subsidiary      | 0.5%                                 | 3.7%         | 300%          | 0.7%  | 4.7%        | 525.4%        |
| E) Eligible non-listed<br>business   | 49.0%                                | 67.3%        | -27.3%        | 3.3%  | 3.9%        | 18.0%         |
| F) Payroll customer                  | 0.5%                                 | 6.5%         | 600%          | 10.2%   | 100%        | 880.6%        |
| <b>Total Phase I Filings (A-D)</b>   | <b>51.0%</b>                         | <b>26.2%</b> | <b>-72.8%</b> | <b>8.6%</b>   | <b>5.6%</b> | <b>-34.6%</b> |
| <b>Total Phase II Filings (E-F)</b>  | <b>49.0%</b>                         | <b>73.8%</b> | <b>-20.2%</b> | <b>3.3%</b>   | <b>4.3%</b> | <b>29.5%</b>  |
| <b>Exemption Type:</b>               |                                      |              |               |   |             |               |
| Biennial Renewal                     | 20.3%                                | 15.9%        | -58.5%        | 2.5%  | 7.0%        | 177.1%        |
| Exemption Amended                    | 7.4%                                 | 11.2%        | -20.0%        | 3.9%  | 7.8%        | 97.7%         |
| Exemption Revoked                    | 24.8%                                | 2.8%         | -94.0%        | 8.2%  | 0.7%        | -91.1%        |
| Initial Designation                  | 50.0%                                | 70.1%        | -25.7         | 6.5%  | 4.9%        | -24.1%        |

### ***The Large-Asset-Institution DOEP Sample***

Our quota sampling showed that large-asset institutions filed about 30 percent of all DOEPs in both 2008 and 2009. Year-over-year, the total number of DOEPs filed decreased 43.3 percent, or about the same as the overall 44 percent reduction. Table 7 displays the DOEP filing patterns of the sample large-asset institutions and how they changed from 2008 to 2009.

Table 7

| <b>Large-Asset<br/>Sample Filers</b>    | <b>Large-Asset<br/>DOEPs Filings</b> |             |               | <b>Large-Asset Percentage of<br/>the Total Population</b> |             |               |
|---|--------------------------------------|-------------|---------------|---|-------------|---------------|
|   | <b>2008</b>                          | <b>2009</b> | <b>Change</b> | <b>2008</b>   | <b>2009</b> | <b>Change</b> |
| <b>Total DOEPs Filed</b>                | 6,578                                | 3,728       | -43.3%        | 29.7%   | 30.1%       | 1.2%          |
| <b>Exemption Basis:</b>                 |                                      |             |               |   |             |               |
| A) Bank                                 | 20.5%                                | 4.9%        | -86.5%        | 46.7%   | 20.0%       | -57.2%        |
| B) Government<br>agency/authority       | 19.9%                                | 12.7%       | -63.9%        | 71.3%   | 67.8%       | -4.9%         |
| C) Listed company                       | 5.5%                                 | 5.7%        | -41.7%        | 41.6%   | 37.6%       | -9.7%         |
| D) Listed company<br>subsidiary         | 14.1%                                | 10.2%       | -59.1%        | 100%  | 83.8%       | -36.0%        |
| E) Eligible non-listed<br>business      | 40.0%                                | 66.6%       | -5.6%         | 16.8%   | 25.8%       | 53.3%         |
| F) Payroll customer                     | 0.0%                                 | 0.0%        | 0.0%          | 0.0%  | 0.0%        | 0.0%          |
| <b>Total Phase I Filings<br/>(A-D)</b>  | 60.0%                                | 33.4%       | -68.5%        | 62.6%   | 47.5%       | -24.2%        |
| <b>Total Phase II Filings<br/>(E-F)</b> | 40.0%                                | 66.6%       | -5.6%         | 16.8%   | 25.7%       | 53.3%         |
| <b>Exemption Type:</b>                  |                                      |             |               |   |             |               |
| Biennial Renewal                        | 15.7%                                | 1.0%        | -96.2%        | 12.1%   | 3.0%        | -74.8%        |
| Exemption Amended                       | 22.1%                                | 7.2%        | -81.6%        | 72.1%   | 32.9%       | -54.4%        |
| Exemption Revoked                       | 9.3%                                 | 6.5%        | -60.4%        | 19.2%   | 11.2%       | -41.5%        |
| Initial Designation                     | 52.8%                                | 85.2%       | -8.6%         | 42.2%   | 39.4%       | -6.5%         |

### *Key Differences in Small- and Large-Asset Institutions*

Our samples of small-asset institutions and large-asset institutions indicated several differences between them in the impact of the rule amendment:

- Small-asset institutions unnecessarily continued to file biennial renewal DOEPs at a higher rate (a decline of 58.5 percent) than the general population (a drop of 85.0 percent), while the large-asset institutions filed almost none (a reduction of 96.2 percent).

- Small-asset institutions unnecessarily continued to file amended DOEPs with filings decreasing only 20.0 percent, while the large-asset institution filings decreased 81.6 percent; total filings dropped 59.5 percent.
- Both small-asset institutions (94.0 percent) and large-asset institutions (60.4 percent) reduced their filing of DOEPs to revoke exemptions significantly more than did the general population (32.3 percent).
- Small-asset institutions filed 25.7 percent fewer initial designations DOEPs, while large-asset institutions reduced their filings only 6.5 percent. Filings by all institutions declined only 2.2 percent. Unnecessary initial designation DOEP filings (those on banks, government agencies, and governmental authorities) shrank 73.9 percent by small-asset institutions, 63.0 percent by large-asset institutions, and 73.6 percent by all institutions. Still-required initial designation DOEP filings (those for listed companies, listed company subsidiaries, eligible non-listed businesses, and payroll customers) grew 18.9 percent for small-asset institutions, 40.6 percent for large-asset institutions, and 41.7 percent for all institutions.

### ***Analysis of Regulatory Helpline Inquiries***

*While some financial institutions required additional guidance on and clarification of the 2009 CTR Exemption Rule, the rule changes and associated guidance fully addressed some of the most common CTR exemption-related Regulatory Helpline inquiries, such as initial designation of certain Phase I customers and biennial renewals for Phase II customers.*

As noted in Table 8, the Regulatory Helpline received 8,055 inquiries on all aspects of FinCEN's rules and activities in the 12 months prior to the January 5, 2009, effective date of the 2009 CTR Exemption Rule. Of the total, 592 were specifically related to CTR exemptions. Inquiries related to CTR exemptions totaled 7 percent of all inquiries and averaged 49.3 per month.

**Table 8**

|   | <b>Pre-2009 CTR<br/>Exemption Rule</b>        |  | <b>Post-2009 CTR Exemption Rule</b>           |  |  |  |
|---|---|--|---|--|--|--|
|   | <b>January 5, 2008 to<br/>January 4, 2009</b> |  | <b>January 5, 2009 to<br/>January 4, 2010</b> |  | <b>January 6 to<br/>April 30, 2010</b> |  |
| <b>Type of<br/>Inquiry</b>                                  | <b>Number</b>                                 | <b>Percentage<br/>of All<br/>Inquiries</b> | <b>Number</b>                                 | <b>Percentage<br/>of All<br/>Inquiries</b> | <b>Number</b>                          | <b>Percentage<br/>of All<br/>Inquiries</b> |
| All Regulatory Helpline                                     | <b>8,055</b>                                  | <b>100%</b>                                | <b>8,420</b>                                  | <b>100%</b>                                | <b>2,660</b>                           | <b>100%</b>                                |
| All CTR*  | <b>2,954</b>                                  | <b>37%</b>                                 | <b>3,239</b>                                  | <b>38%</b>                                 | <b>1,038</b>                           | <b>39%</b>                                 |
| All CTR<br>Exemption<br>(Percentage<br>of All CTR)          | <b>592</b><br>(20%)                           | <b>7%</b>                                  | <b>645</b><br>(20%)                           | <b>8%</b>                                  | <b>194</b><br>(19%)                    | <b>7%</b>                                  |
| 2009 CTR<br>Exemption<br>Rule<br>(Percentage<br>of All CTR) | <b>5</b><br>(0%)                              | <b>0%</b>                                  | <b>232</b><br>(7%)                            | <b>3%</b>                                  | <b>56</b><br>(5%)                      | <b>2%</b>                                  |

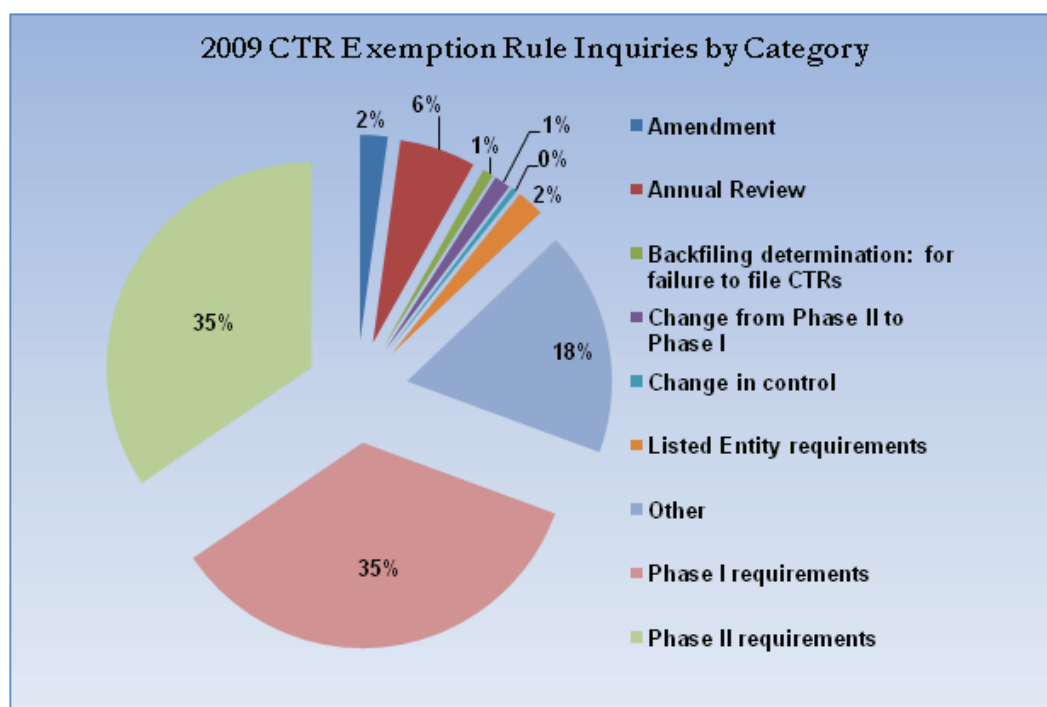
In the 12 months following the effective date of the 2009 CTR Exemption Rule, the Regulatory Helpline received 645 total CTR exemption-related inquiries, of which 232 were specifically related to the 2009 CTR Exemption Rule. Total CTR exemption-related inquiries increased from the previous year to 53.8 per month.

During the first quarter of 2010, the Regulatory Helpline received 194 inquiries related to CTR exemptions, including 56 that specifically involved the 2009 CTR Exemption Rule. All CTR exemption inquiries decreased to an average of 48.5 per month, or a level lower than before the rule amendments took effect.

### *Key trends in CTR exemption inquiry topics*

In 2009, the most frequent inquiries related to the rule change were associated with the requirements to complete a biennial renewal on Phase II exemptions (Phase II requirements) and to file a DOEP for certain Phase I exemptions (Phase I requirements), such as law enforcement agencies, government agencies, and depository institutions (see Chart 10). There were 121 such inquiries following the effective date of the 2009 CTR Exemption Rule, nearly the same total as before the rule change.

**Chart 10**

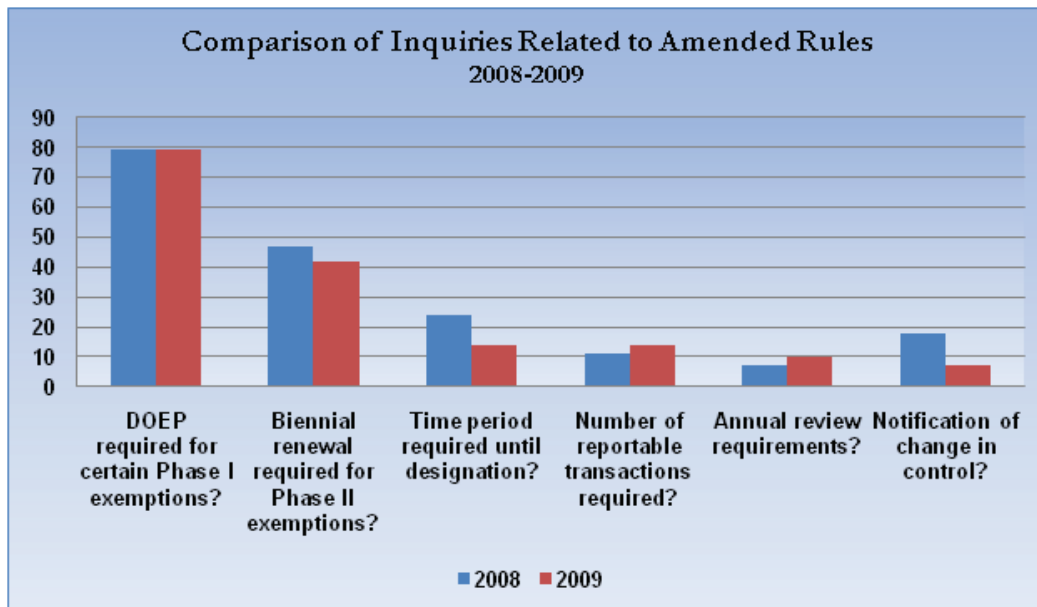


### *2009 CTR Exemption Rule changes*

As mentioned previously, there were six changes to FinCEN's CTR exemption requirements as a result of the 2009 CTR Exemption Rule. Chart 11 highlights the total number of inquiries related to those six changes in the 12 months before and after the rule change. Most of the 2009 CTR Exemption Rule inquiries sought general clarification on the new rules. As a percentage of all CTR exemption inquiries, there was little change before and after the amended rules became effective.



Chart 11



### *Pre-2009 CTR Exemption Rule inquiries*

The Regulatory Helpline received a total of 592 CTR exemption related inquiries in the 12 months prior to the effective date of the 2009 CTR Exemption Rule. This total included 186 inquiries about requirements that would be changed as a result of the 2009 CTR Exemption Rule. Of the remaining 406 inquiries received during the 12 months prior to the 2009 CTR Exemption Rule, there were some common trends in the questions. About 15 percent (86) of the callers asked whether or not they would have to amend a specific DOEP filing. Another 10 percent (59) asked whether or not a specific customer would be eligible for exemption. Eight percent (46) of the callers asked how to handle the exemptions for new customers obtained via a merger while six percent (37) asked for assistance in completing the DOEP form.

### *Post-2009 CTR Exemption Rule inquiries (non-2009 CTR Exemption Rule-related)*

The Regulatory Helpline received 413 calls during the 12 months following the effective date of the 2009 rule change that were relevant to CTR exemptions in general, but which were not specific to the rule change. The topics of those queries were similar to those received prior to the rule change.

About 29 percent (121) of the callers asked whether a specific customer would be eligible for exemption. Another 13 percent (53) asked for assistance in completing the DOEP form. Eight percent (35) asked whether or not they would have to amend a specific DOEP filing. However, the frequency of inquiries related to amending a specific DOEP filing decreased following the publication of the August 2009 Guidance.<sup>21</sup> Another seven percent (30) asked how to handle the exemptions for new customers obtained via a merger.

### *2010 Inquiries (January 6 - April 30, 2010)*

During the first quarter of 2010, the 56 inquiries relative to the 2009 CTR Exemption Rule were associated with completing a biennial renewal (37 inquiries) on Phase II exemptions and filing a DOEP for certain Phase I exemptions, such as law enforcement agencies, government agencies, and depository institutions. In the case of the biennial renewal inquiries, FinCEN believes callers were largely institutions nearing the now irrelevant March 15th deadline for DOEP renewals that they thought might still pertain to DOEPs they had filed in 2008. With the two most recent old biennial renewal periods now passed, FinCEN expects the overall number of inquiries on this topic to continue to decline.

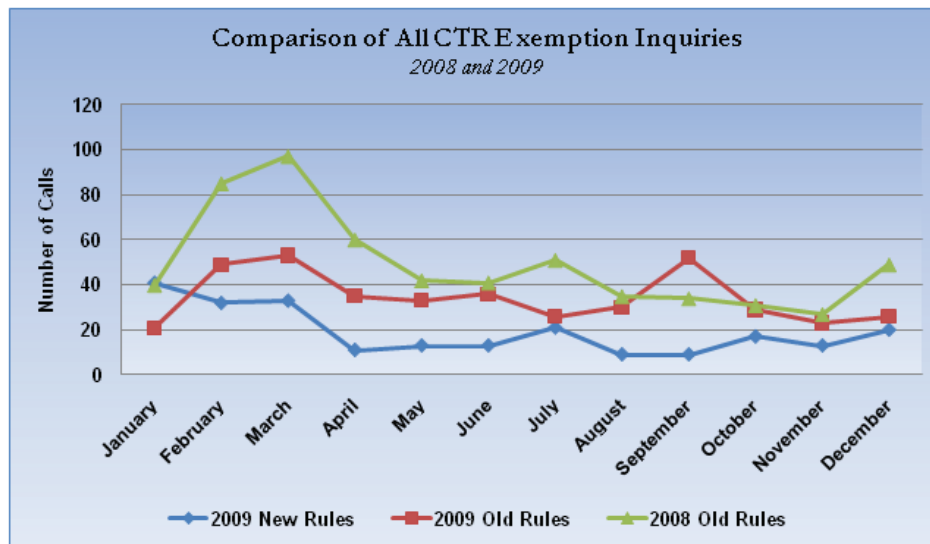
### *Seasonal variation in inquiries*

The seasonal variation of inquiries over the calendar year has been relatively stable. As shown in Chart 12, the months with the highest number of inquiries for the entire time period analyzed were March (183), February (166), and April (106). During the first quarter of 2010, March continued to have the highest number of total inquiries (31).

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21. The Regulatory Helpline received an average of 3.9 DOEP amendment inquiries per month in the 8 months prior to the issuance of the August 2009 Guidance, compared to an average of 1 inquiry per month received in the 4 months after the issuance of the August 2009 Guidance.

Chart 12



The higher volume of inquiries received during those three months in 2008 was related to the previous annual review requirement, as well as the requirement to submit a biennial renewal by March 15. Following the effective date of the 2009 CTR Exemption Rule, which eliminated the requirements to perform an annual review for certain Phase I exemptions and to submit a biennial renewal for Phase II customers, FinCEN expected to see a decrease in the volume of all CTR exemption inquiries during those same months in 2009. Instead, the volume of inquiries was relatively stable, largely due to inquiries about the effective date of the 2009 CTR Exemption Rule, biennial renewal requirements, and other general exemption eligibility questions. A moderate increase in general CTR exemption inquiries followed the issuance of the August 2009 Guidance. For the first quarter of 2010, the most common inquiries continued to be associated with biennial renewals and the DOEP filing for Phase I exemptions.

### *Inquiries by Geographic Location*

Across 2008 and 2009, there was relative consistency in the geographic location of the financial institution representatives contacting the Regulatory Helpline regarding CTR exemption rules. The top five states were Texas (100), California (66), Illinois (65), Minnesota (64), and Missouri (56). These patterns continued during the first quarter of 2010, with Texas again ranked the top state.

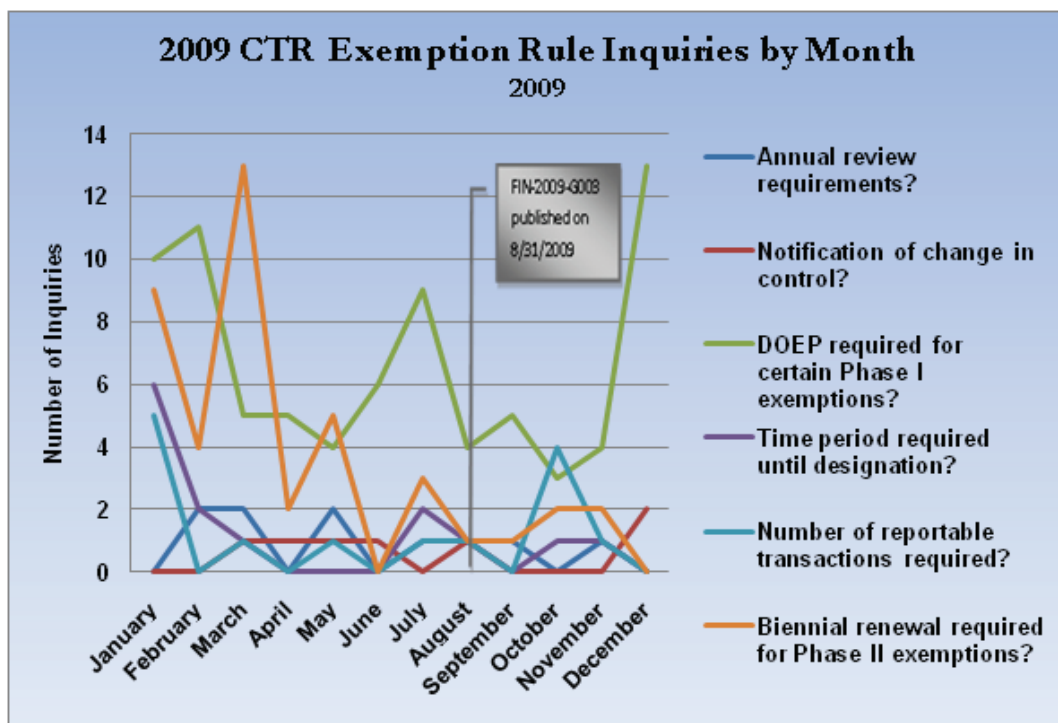
### *Inquiries by Institution Type*

Across the time periods reviewed, there also was consistency in the institution type contacting the Regulatory Helpline regarding CTR exemption rules. Banks (1,001) accounted for 81 percent of total inquiries, followed by 13 percent for credit unions (161), 4 percent for all other financial institutions<sup>22</sup> (51), and 2 percent for regulators (24). Banks and credit unions constituted the vast majority (52) of inquiries during the first quarter of 2010.

### *Effects of FinCEN CTR exemption guidance*

Inquiries related to the amended rules decreased during the last four months of 2009 after FinCEN issued additional guidance.<sup>23</sup> The Regulatory Helpline received an average of 22 inquiries per month related to the 2009 CTR Exemption Rule through August 2009 but only 15 inquiries per month during the final four months of the year (see Chart 13).

**Chart 13**



22. All other financial institutions included broker/dealers, individuals, loan and finance companies, thrift or savings and loans, and money services businesses.

23. FIN-2009-G001 issued in April 2009 was not a focus for this analysis because it was not issued as guidance solely on the 2009 CTR Exemption Rule.

## ***Feedback from FinCEN Depository Institution Outreach<sup>24</sup> and Law Enforcement Representatives***

*FinCEN has received positive feedback on the 2009 CTR Exemption Rule during its recent outreach initiatives to depository institutions. This anecdotal feedback suggests that the financial industry is benefiting from FinCEN's rule change.*

### ***Large Bank Outreach***

In 2008, FinCEN initiated an outreach effort with representatives from a variety of industries subject to BSA regulatory requirements. The first of these efforts was outreach to large depository institutions. Between April 16, 2008 and January 28, 2009, teams from FinCEN visited 8 of the 15 largest banks and thrifts.<sup>25</sup> Comments<sup>26</sup> that bank officials made about the new CTR exemption regulation, which was not yet final at the time of this initiative, follow:

First, some banks indicated that they utilize both Phase I and Phase II exemptions. These banks noted that they actively work to identify new customers to exempt and set goals for how many exemptions they aim to add. One official said the bank views exemptions as a customer service tool because customers do not need to spend time providing the bank with the requisite CTR information (including conductor information for cash deposits made at branches). This bank's largest customer exemption categories are government entities, publicly traded companies and their subsidiaries, and restaurants. The bank's BSA team vets all exemptions and reviews them annually.

Management at one bank said the 2009 CTR Exemption Rule would free resources previously spent on the biennial review and renewal process, enabling the bank to increase its number of exemptions. Another bank commented that most of its time in the exemption process was spent on the annual review of non-listed businesses, which required the bank to review, verify, and document once per year the information supporting each designation. The bank believed the 2009 CTR Exemption Rule would reduce much of that effort.

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24. See [http://www.fincen.gov/news\\_room/speech/html/20091013.html](http://www.fincen.gov/news_room/speech/html/20091013.html).

25. Based upon the FDIC Institution List of Top 100 Banks and Thrifts Nationally by Asset Size as of September 30, 2007.

26. See [http://www.fincen.gov/news\\_room/nr/html/20091013.html](http://www.fincen.gov/news_room/nr/html/20091013.html).

### ***Small Bank Outreach***

In addition to the large bank outreach, FinCEN has been conducting similar outreach to smaller sized banks. The findings from that outreach have not yet been completed. The comments received through this outreach regarding the 2009 CTR Exemption Rule, however, were generally positive.

One bank, for example, noted that exemptions save a substantial amount of time and resources, since CTRs require human interaction and review for 6 weeks. The bank said it expected to exempt more customers in response to the January 2009 rule changes, in part because of the new rule's definition of transaction "frequency." Another bank noted that shortening the time required for exempting new customers was beneficial. As a result of the rule change, the bank said it is filing more exemptions and no longer filing biennial renewals. A credit union also noted its favorable opinion of the 2009 CTR Exemption Rule.

Notwithstanding these positive comments, FinCEN has heard from some institutions that they remain reluctant to change their procedures to take more full advantage of the exemption process.

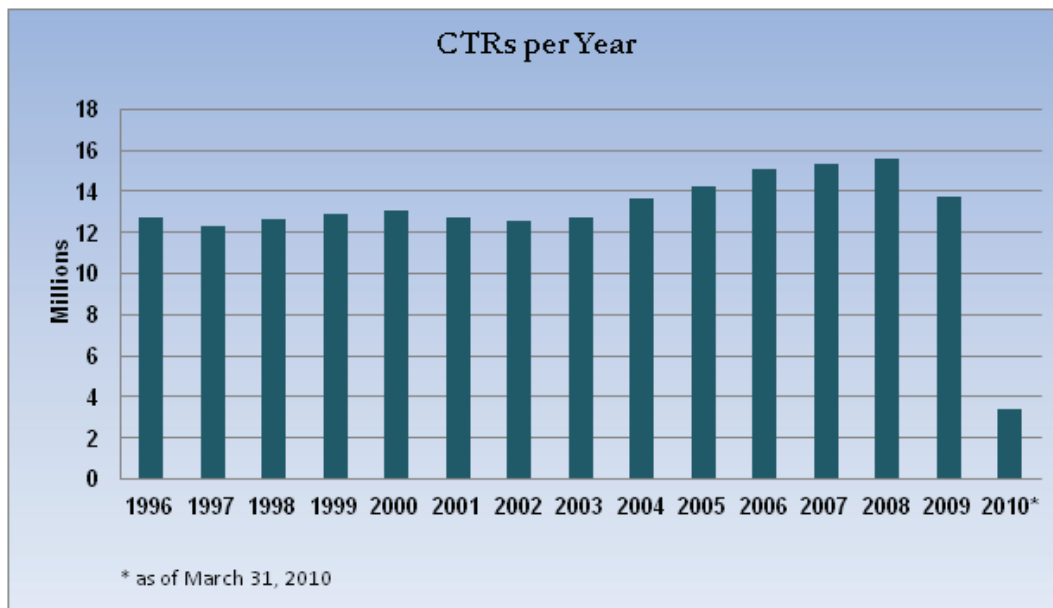
### ***Law Enforcement Feedback***

FinCEN had consulted with law enforcement in developing the proposals for and sought feedback on the effects of the 2009 Exemption Rule from a number of federal law enforcement representatives. To date, law enforcement has not raised any concerns or issues with FinCEN regarding the usefulness or quality of CTR filings as a result of the amended rules.

## Analysis of CTR Filings

*The amended CTR exemption rules appear to have helped reduce the overall volume of CTR filings by about 12 percent between 2008 and 2009, from 15.5 million to 13.7 million, thereby reducing the amount of CTRs of little to no value to law enforcement investigations.*

Chart 14



As awareness and adoption of the 2009 CTR Exemption Rule have grown, depository institutions' greater use of their exemptive abilities has helped reduce the number of CTRs being filed. From 2008 to 2009, CTR filings from all financial institutions<sup>27</sup> fell 11.6 percent, from 15.5 million in 2008 to 13.7 million in 2009.<sup>29</sup> Reporting in the first quarter of 2010 fell another 1.4 percent, compared to the first quarter of 2009 (see Chart 14).

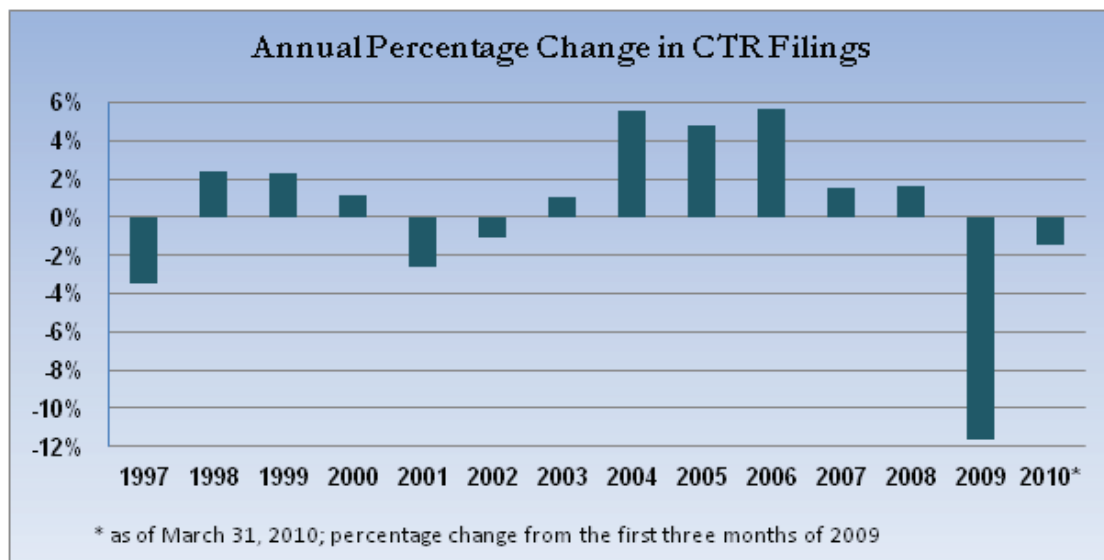
27. These include financial institutions such as Money Services Businesses to which the exemption rules have no applicability.

28. All IRS-examined institutions, such as Money Services Businesses (MSBs), filed only 1.5 percent of all CTRs in both 2008 and 2009, but submitted 12.0 percent fewer CTRs in 2009 (204,011) than in 2008 (231,875). MSBs typically service many unbanked clients, however, who may have been more vulnerable to the recession than typical bank and credit union customers. U.S. Postal Service CTR filings dropped only 6 percent in the same period.



In addition to the adoption of the 2009 CTR Exemption Rule, general economic conditions may have played a role in the overall reduction. To explore the possible effects of the economy on CTR filings, FinCEN examined filing patterns during prior economic downturns. Chart 15 illustrates the percentage of change each year over the past decade.<sup>29</sup> The number of CTRs did diminish during the recession at the beginning of the decade, but not on the order of magnitude experienced in 2009. CTR filings dropped 2.6 percent in 2001 and another 1.1 percent in 2002. Different economic conditions make comparison difficult.

Chart 15



### *Small- and large-asset institution filings*

Both small-asset and large-asset institutions seemed to experience a greater decline in CTR filing than the overall 11.6 percent reduction.<sup>30</sup> Small-asset institutions indicated that this class of banks and credit unions filed 13.6 percent fewer CTRs in 2009 than in 2008. CTR filings of the sampled large-asset institutions decreased 20.3 percent.

29. The general increase in CTR filings for much of the past decade would appear to indicate little relationship between the number of cash transactions of more than \$10,000 that must be reported to FinCEN and trends within the general economy towards the use of electronic payments and away from that of cash and checks; see Geoffrey R. Gerdes, "[Recent payment trends in the United States](#)," Federal Reserve Bulletin, vol. 94 (October 2008), pp. A75-A106.

30. For more details of the sampling methods used, please see the Methodology section.



Further, 47.7 percent of small-asset institutions filed CTRs during the 2-year study period. Slightly over one-third (34 percent) submitted reports both years. Of the 13.7 percent that filed CTRs in only 1 of the 2 years, 6.5 percent filed in 2008 and 7.2 percent in 2009. Twenty of the twenty-five large-asset institutions sampled filed CTRs in both years, four filed no CTRs, and one filed a CTR only in 2008.

Individual institutions had very diverse filing patterns. The largest filer in the small-asset sample filed 37,814 CTRs in 2008 and 33,514 in 2009, an 11.4 percent decline. The second most prolific filer studied submitted 3,291 reports in 2008 and 1,898 in 2009, a decrease of 42.3 percent. The third largest filer in the sample reported 600 times in 2008, and 445 times in 2009, a drop of 25.8 percent. One medium-volume filer sent in 22 CTRs in 2008 and 9 in 2009, but 19 by the middle of April 2010. The largest filer in the large-asset sample filed 1,930,112 CTRs in 2008 and 1,485,506 in 2009, a 23.0 percent decline. The second most prolific filer studied submitted 831,797 reports in 2008 and 708,938 in 2009, a decrease of 14.8 percent. The third largest filer in the sample reported 210,216 times in 2008, and 230,308 times in 2009, an increase of 9.6 percent. One of the smaller filers in this group sent in 1,163 CTRs in 2008 and only 265 in 2009, a drop of 77.2 percent.

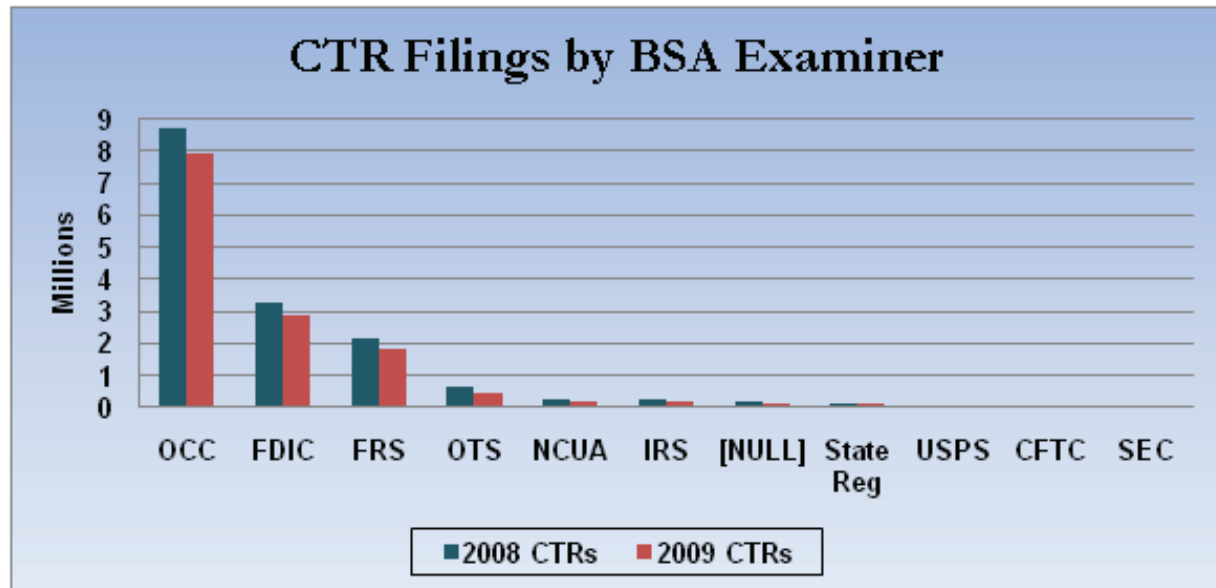
### *CTR filings by geographic location*

Seven states were home to the filers of more than half of the 2008 and 2009 CTRs. The top seven filing states for these years were: California, New York, Texas, Florida, New Jersey, Illinois, and Pennsylvania. Filers in each of these states submitted over one million CTRs, with California filers submitting more than two million CTRs (representing over 14 percent) each year. Nine jurisdictions had decreases of more than 15 percent from 2008 to 2009. Of the 43 areas with at least 40,000 CTRs average per year, only Washington (-4.6 percent) and Puerto Rico (-7.3 percent) saw declines of less than 8.5 percent.

### *CTR filings by BSA examiner*

Chart 16 shows the numbers of CTRs filed in 2008 and 2009, categorized by agencies that examine different types of financial institutions for BSA compliance. Most CTRs were filed by institutions overseen by the Office of the Comptroller of the Currency (OCC). Institutions examined by Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve System (FRS) also were large-volume filers. CTR filing fell from 2008 to 2009 in every category except state-regulated institutions (which saw a 7.8 percent increase) and institutions regulated by the Securities and Exchange Commission (SEC), whose filings were essentially flat.

Chart 16



### *CTR filings by media type*

Chart 17 shows that filings on older types of filing media<sup>31</sup> declined in each of the past four years, reflecting increased electronic filing. Even E-filing using the Extended Binary-Coded Decimal Interchange Code (EBDIC) data encoding system decreased from 2008 to 2009. Only filings through American Standard Code for Information Interchange (ASCII) data encoding increased in every year. Chart 18 shows the annual change for each media type. (Note that the relatively low total numbers of filings on disk and tape make their change percentages much more dramatic.)

31. Some financial institutions previously filed BSA reports using magnetic media, including cartridges, diskettes, or tapes. In keeping with its efforts to make BSA filing requirements more secure, efficient, and effective, FinCEN retired the BSA Magnetic Media Filing Program on December 31, 2009.

Chart 17

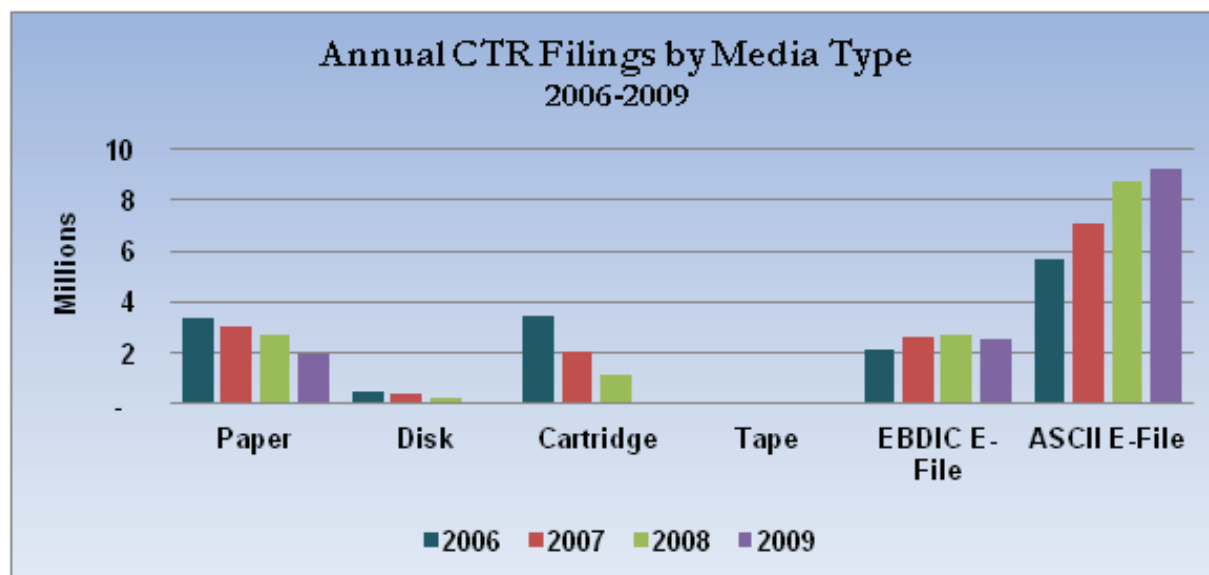
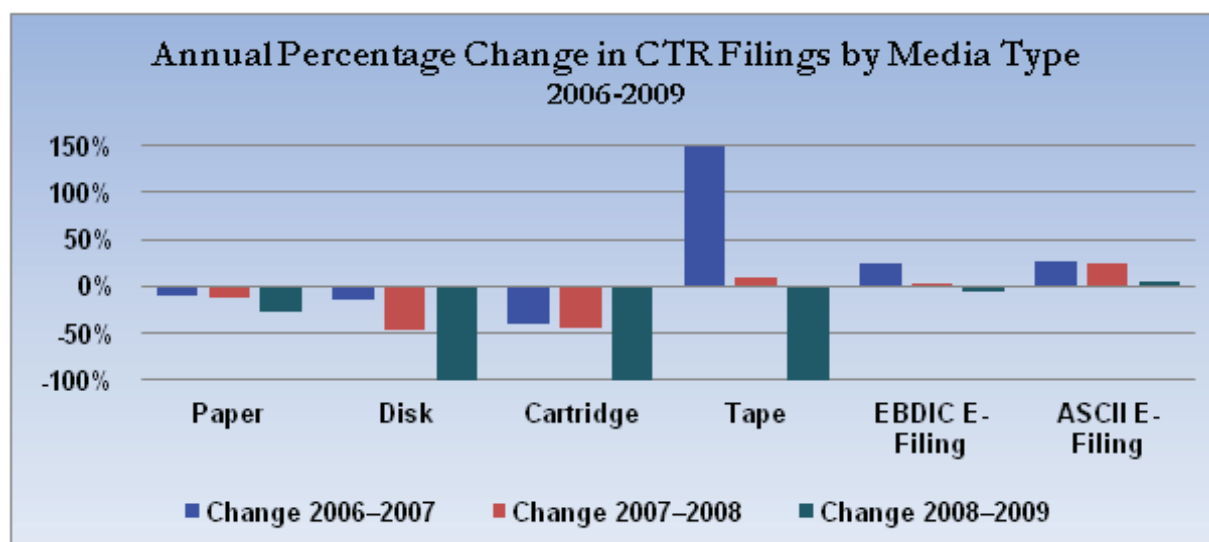


Chart 18





# Significant Findings

**F**inCEN's analysis of DOEP and CTR filings as well as industry inquiries and feedback on the 2009 CTR Exemption Rule identified the following significant findings:

## ***DOEP Filings***

*The total number of DOEP filings fell 44 percent to 29,732, the lowest number ever.* Initial designations of exempt subjects dropped 2 percent, declining on every basis except eligible non-listed businesses, which grew 52.8 percent. Since the Final Rule made the filing of a DOEP unnecessary when the subject is a bank, government agency, or governmental authority, initial designation filings on these bases dropped 73.6 percent in 2009 (indicating that a significant number of institutions continued to file reports no longer required).

*Depository institutions are taking advantage of the simplified exemption process.* Of the customers for which initial designation DOEPs were still required, the number of filings grew 41.7 percent from 2008 to 2009, reflecting depository institutions' increasing use of the simplified exemption process.

## ***Financial Institution Inquiries***

*Some financial institutions required additional guidance on and clarification of the 2009 CTR Exemption Rule.*

Approximately two out of every five financial institution representatives contacting the Regulatory Helpline may not have initially understood or been aware of the rule changes. Inquiries related to CTR exemptions during 2009 increased approximately nine percent from 2008 levels. Across all aspects of the rule changes, representatives primarily sought clarification or confirmation of the new requirements.

*The 2009 CTR Exemption Rule fully addressed some of the most common CTR exemption-related Regulatory Helpline inquiries.*

The 2009 CTR Exemption Rule specifically addressed two of the five most common CTR exemption-related Regulatory Helpline inquiries: whether a DOEP filing was required for certain Phase I exemptions and whether biennial renewal was required.

*FinCEN and other guidance or assistance helped further addressing inquiries regarding the 2009 CTR Exemption Rule.*

In the last four months of 2010, the average number of monthly inquiries regarding when to amend a DOEP decreased 75 percent. FinCEN believes that responses from the Regulatory Helpline staff, general outreach by FinCEN, and publication of the August 2009 Guidance contributed to this decrease.

## **Depository Institution Feedback**

*FinCEN has received some positive feedback from depository institutions on the 2009 CTR Exemption Rule.*

Through its recent outreach initiatives, FinCEN has received anecdotal feedback suggesting that depository institutions increasingly understand and are benefiting from the rule change.

## **CTR Filings**

*CTR numbers fell 11.6 percent from 2008 to 2009 to 13.7 million filings.*

While economic conditions may have marginally influenced this decline in CTR filings, the size of the reduction reflects an increased use of CTR exemptions and associated reduction filings of CTRs of lesser value to law enforcement.

*The decline in CTR filings among the smallest and largest institutions reviewed was even greater than across all depository institutions.*

Small-asset institution CTR filings declined 13.6 percent from 2008 to 2009, with fewer than half of those institutions sampled filing any CTRs in either year. By comparison, the large-asset institutions sampled for this assessment filed 20.3 percent fewer CTRs in 2009 than in 2008.

# Appendix

## ***Rules, Guidance, and News Releases***

The following are links to previously released information regarding amended rules for Exemptions from the Requirement to Report Transactions in Currency. All of the information listed below currently appears on FinCEN's Web site:

<http://www.fincen.gov>.

FinCEN Amendment to the Bank Secrecy Act Regulations—Exemptions from the Requirement to Report Transactions in Currency (Final Rule), effective January 5, 2009 – December 4, 2008

([http://www.fincen.gov/statutes\\_regs/frn/pdf/frnCTRExemptions.pdf](http://www.fincen.gov/statutes_regs/frn/pdf/frnCTRExemptions.pdf))

Guidance—Supporting Information Suitable for Determining the Portion of a Business Customer's Annual Gross Revenues that is Derived from Activities Ineligible for Exemption from Currency Transaction Reporting Requirements (FIN-2009-G001) – April 27, 2009

([http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2009-g001.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-g001.html))

Guidance – Determining Eligibility for Exemption from Currency Transaction Reporting Requirements (FIN-2009-G003) – August 30, 2009

([http://www.fincen.gov/statutes\\_regs/guidance/pdf/fin-2009-g003.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-g003.pdf))

2010 FFIEC *Bank Secrecy Act/Anti-Money Laundering (BSA/AML)* Examination Manual ([http://www.fincen.gov/news\\_room/nr/html/20100429.html](http://www.fincen.gov/news_room/nr/html/20100429.html))

Currency Transaction Report (FinCEN Form 104)

([http://www.fincen.gov/forms/files/fin104\\_ctr.pdf](http://www.fincen.gov/forms/files/fin104_ctr.pdf))

Designation of Exempt Person (FinCEN Form 110)

([http://www.fincen.gov/forms/files/fin110\\_dep.pdf](http://www.fincen.gov/forms/files/fin110_dep.pdf))

Financial Institutions Outreach Initiative: Report on Outreach to Large Depository Institutions, October 2009

([http://www.fincen.gov/news\\_room/nr/html/20091013.html](http://www.fincen.gov/news_room/nr/html/20091013.html))

Other information referenced in the report is available through the following links:

“Bank Secrecy Act: Increased Use of Exemption Provisions Could Reduce Currency Transaction Reporting While Maintaining Usefulness to Law Enforcement Efforts” GAO-08-355 (GAO: Washington, DC: Feb. 21, 2008)

(<http://www.gao.gov/new.items/d08355.pdf>)

Geoffrey R. Gerdes, “[Recent payment trends in the United States](#),” *Federal Reserve Bulletin*, vol. 94 (October 2008), pp. A75-A106.







[www.FinCEN.gov](http://www.FinCEN.gov)