anti-money laundering safeguards'') to which other casinos in the United States are subject. *See* H.R. Rep. No. 652, *supra*.

The Bank Secrecy Act generally imposes several sets of requirements on casinos. First, each casino is required to file with the Department of the Treasury a report of each receipt or disbursement of more than $10,000 in currency in its gaming operations; aggregation of multiple transactions is required in a number of situations. *See* 31 CFR 103.22(a)(2). In addition, later this year, Treasury will issue regulations to require financial institutions, including casinos, to file reports of suspicious transactions. *See* 31 U.S.C. 5318(g)(1).

Each casino is also required by the Bank Secrecy Act to maintain certain records relating to the casino's operation, including records identifying account holders (*see* 31 CFR 103.36(a)), or showing transactions for or through each customer's account (*see, generally,* 31 CFR 103.36(b)), and transactions involving persons, accounts or places outside the United States, (*see* 31 CFR 103.36(b)(5)); records which are prepared or used by a casino to monitor a customer's gaming activity or records of purchases of more than $3,000 worth of checks or other monetary instruments are also among the types of records that must be maintained (*see* 31 CFR 103.36(b)(8) and (b)(9)). Finally, casinos must institute training and internal control programs to assure and monitor compliance with the Bank Secrecy Act (*see* 31 CFR 103.36(b)(10) and 103.54(a)).

Gaming establishments within the scope of the proposed rule will remain subject to the filing requirements of section 6050I of the Internal Revenue Code, with respect to their gaming and financial services operations, until this proposed rule becomes effective. *See* section 6050I of the Internal Revenue Code, 26 U.S.C. 6050I(a) and (c); Treas. Reg. 1.6050I–1(d)(2). Gaming establishments, whether non-tribal or tribal, that are not included within the definition of casino in the Bank Secrecy Act remain fully subject to the currency reporting rules of section 6050I of the Internal Revenue Code; section 6050I of the Code will also continue to apply to non-gaming and non-financial services operations, for example hotel accommodations, at casinos that are subject to the Bank Secrecy Act.

D. *Request for Comments on Specific Subjects.* FinCEN recognizes that the circumstances of tribal gaming are not uniform throughout the United States, and it is keenly aware of the need to proceed thoughtfully in adopting the rules of the Bank Secrecy Act to the realities of the operation of casinos on Indian lands. FinCEN specifically seeks comment on the following questions:

1. Are there particular parts of the Bank Secrecy Act regulations applicable to casinos generally that do not accurately reflect the way tribal casinos operate?

2. What types of financial services, other than gaming, are offered by tribal casinos or by other financial businesses operating at such casinos?

3. How can compliance with the Bank Secrecy Act by tribal casinos best be examined and enforced?

4. How should compliance by tribal casinos with the Bank Secrecy Act be integrated with the regulatory regimes created by the Indian Gaming Regulatory Act and the tribal-state compacts required by that statute for authorization of Class III gaming?

In seeking guidance on these and other issues raised by this notice of proposed rulemaking, FinCEN is interested in hearing from all parties potentially affected by the proposed rules, including Indian tribes on whose lands gaming is conducted, tribal or non-tribal enterprises that manage casinos on such lands, and officials of state and local governments within whose boundaries such lands are located. FinCEN will consider holding a public hearing on the proposed rule if comments suggest that a public hearing would be productive.

Equalization of the treatment of state-licensed and tribal casinos is necessary as a prelude to the consideration of broader issues affecting the application of the Bank Secrecy Act to the gaming industry. Those issues include whether clarifications should be made in the definition of casino as new types of gaming develop (or whether the term ''casino'' is sufficiently elastic to encompass such developments,[4]) whether special rules should be applicable to small casinos, and how best to implement the provisions added to the Bank Secrecy Act generally with respect to gaming establishments by the Annunzio-Wylie Anti-Money Laundering Act of 1992, Title XV of the Housing and Community Development Act of 1992, Pub. L. 102–550, and the Money Laundering Suppression Act.

E. *Other Changes in ''Meaning of Terms''.* Changes are also proposed to be made to the definitions of ''person'' and ''United States'' in 31 CFR 103.11(n) and (s), and definitions of the terms ''Indian Gaming Regulatory Act'', ''State'', and ''Territories and Insular Possessions'' are proposed to be added to § 103.11 as new paragraphs (v), (w), and (x), respectively. As explained immediately above, these definitions are proposed to permit efficient application of 31 CFR Part 103 to tribal casinos. The proposed definitions of terms ''State'' and ''Territories and Insular Possessions'' will be repeated in the rules published to implement the provisions of section 402 of the Money Laundering Suppression Act relating to the mandatory exemption of certain transactions with depository institutions from the currency transaction reporting requirements of 31 U.S.C. 5313 and 31 CFR 103.22.[5]

F. *Additions to Record Maintenance Requirements.* The requirement of 31 CFR 103.36(b)(7) that casinos retain all records, documents or manuals required to be maintained under state and local laws or regulations is proposed to be amended to recognize that tribal casinos are required to retain records in many cases either by tribal governing authorities or under the terms of tribal-state compacts authorizing Class III gaming on Indian lands under the Indian Gaming Regulatory Act. The proposed change simply conforms the record retention requirements to reflect the fact that a casino on tribal lands will retain certain documents because tribal rules or tribal-state compacts, rather than state regulation, require their retention.

Proposed Effective Date

The amendments to 31 CFR Part 103 proposed in this notice of proposed rulemaking will become effective 90 days following publication in the **Federal Register** of the final rule to which this notice relates.

[4] For example, an establishment that claimed to be a gambling ''club'' rather than a casino because it simply offered customers an opportunity to gamble with one another, but that in practice funded certain customers so that other customers were in effect gambling against ''house'' money, and that offered its customers financial services of various kinds, is arguably a casino under present law. Thus, for example, if such a ''club'' failed to file currency transactions reports or allowed a customer to deposit funds in a player bank account in the name of the customer without requiring the customer to provide identifying information, the club would arguably be operating in violation of the Bank Secrecy Act.

[5] The numbering scheme used in this notice of proposed rulemaking reflects the July 1, 1994 edition of the Code of Federal Regulations; the definitions contained in 31 CFR 103.11 will automatically be renumbered as of January 1, 1996, when the rules relating to funds transfers and transmittals of funds by financial institutions take effect. FinCEN intends to issue in the near future a notice of proposed rulemaking reordering all of the provisions of 31 CFR 103.11 as well as proposing changes in certain of those provisions; the terms dealt with in this notice will appear in that notice of proposed rulemaking without further changes relating to tribal casinos.