

Supplemental Statement

1. Circumstances Necessitating Collection of Information.

The statute generally referred to as the Bank Secrecy Act, Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, to require, *inter alia*, financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 312 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, of 2001, P.L. 107-56, added a new paragraph (i) to 31 U.S.C. 5318. Section 312 requires U.S. financial institutions to conduct, *inter alia*, enhanced due diligence with regard to correspondent accounts that they establish, maintain, administer, or manage for certain foreign banks. We are issuing a final regulation to implement the enhanced due diligence provisions of section 312. Under the final rule, U.S. financial institutions subject to section 312 would be required, as appropriate: (i) to obtain information relating to the anti-money laundering programs of certain foreign banks that have correspondent account relationships with the U.S. financial institutions, (ii) to obtain information from the foreign banks about the identity of persons with authority to direct transactions through the correspondent accounts if they are payable-through accounts, as well as information about the sources and beneficial owners of funds or other assets in the payable-through accounts; and (iii) to obtain the identity of certain owners of any such foreign bank that is privately owned and the nature and extent of the ownership interest.

2. Method of Collection and Use of Data.

The collection of information is not reported to the federal government. Instead, financial institutions will be required to obtain information from foreign banks and keep copies of documents obtained from the foreign banks. The information will help protect the U.S. financial system from abuse by money launderers and others engaged in financial crimes and terrorism financing.

3. Use of Improved Information Technology to Reduce Burden.

Financial institutions are permitted to automate their records system to meet these requirements. There is no specific government mandate to do so.

¹ Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

4. Efforts to Identify Duplication

Not applicable.

5. Methods to Minimize Burden on Small Businesses or Other Small Entities

All financial institutions are required, when appropriate, to identify any correspondent bank clients of the U.S. bank's foreign correspondent bank and are permitted to use the method most suitable to these requirements.

6. Consequences to the Federal Government of not Collecting the Information.

Without this information, the federal government's efforts to prevent money laundering and terrorism financing would be weakened.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

Under 31 CFR 103.38, records must be kept for 5 years. This retention period is necessary to substantiate violations that have occurred within the Statute of Limitations (5 or 6 years).

8. Consultation with Individuals Outside of the Agency on Availability of Data. Frequency of Collection, Clarity of Instructions and Forms, and Data Elements.

On August 5, 2010, FinCEN published in the Federal Register a notice of intent to renew, without change, the current collection (See 75 FR 47346). No responses or comments were received.

9. Payments and Gifts

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information collected under 31 U.S.C. 5318(i) may be made available to appropriate law enforcement agencies and supervisory agencies, pursuant to legal process.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

Frequency: As required.

Estimated Number of Respondents: 28,163

Estimated Annual Responses: 56,326

We estimated an average of one (1) burden hour in the Notice of Proposed Rulemaking. In response to the comments received, we have adjusted the annual burden to two (2) hours.

13. Estimated Annual Cost to Respondents for Hour Burdens.

Not required.

14. Estimated Annual Cost to the Federal Government.

Not required.

15. Reason for Change in Burden.

Public comments on new requirement.

16. Plans for Tabulation, Statistical Analysis, and Publication.

Not applicable.

17. Request not to Display Expiration Date of OMB Control Number.

We request that it not be required to display the expiration date in order to avoid amending the regulation every three years.

18. Exceptions.

There are no exceptions to the certification statement on OMB Form 83-1.