

SUPPORTING STATEMENT

1) CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On April 8, 2003, the Financial Crimes Enforcement Network (FinCEN) delegated to the Internal Revenue Service the authority to enforce the provisions of 31 U.S.C. § 5314 and 31 C.F.R. §§103.24, 103.27, and 103.32 respecting the reporting and record keeping requirements for the Report of Foreign Bank and Financial Accounts. The delegation is referred to at 31 C.F.F. §103.56(g) and appears in full in a Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements. Paragraph 3 of this delegation specifically provides that the IRS may revise TDF 90-22.1, the FBAR, and its instructions. The FBAR has not been revised since the year 2000, although FinCEN has extended the form until 2008. The OMB number for the existing form is a Treasury Department Number which is not suitable for an IRS form. Accordingly this request is being made for a new form, although the requirements for the FBAR have existed since 1970.

2. USE OF DATA

Congress in 31 U.S.C. § 5311 stated that the purpose of the collection of this information was because of its high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans at this time to offer electronic filing because of the low volume compared to the cost of electronic enabling.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not Applicable

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not Applicable

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not Applicable

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding the FBAR. The proposed FBAR received extensive comments from IRPAC as it was under consideration.

We will publish a Federal Register notice in the near future to solicit public comments on this form.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not Applicable

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103. However this is not a tax return. It is protected from disclosure even under the Freedom of Information Act under 31 U.S.C. § 5319, although it is available to law enforcement.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

Form	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
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	281,762	20 minutes	93,921
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Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital of start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no cost associated with this form.

15. REASONS FOR CHANGE IN BURDEN

Burden has changed because this is a new form. Burden has changed from the Treasury form because of the increased number of FBARs being filed and because IRS has received comments that the prior burden estimate of ten minutes per form was not long enough.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not Applicable

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103. The FBAR is protected from disclosure under 31 U.S.C. § 5319.