

Supporting Statement
OMB Control Number 1506—New Collection
Imposition of Special Measure Against Banco Delta Asia
As a Financial Institution of Primary Money Laundering Concern
31 CFR Part 103

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

The Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury is issuing a notice of proposed rulemaking under the authority of section 5318A of Title 31, United States Code, to impose a special measure against Banco Delta Asia. FinCEN has determined that Banco Delta Asia is a financial institution of primary money laundering concern, and that the imposition of the special measure selected—prohibiting domestic financial institutions from maintaining foreign correspondent accounts with Banco Delta Asia—is a necessary step to ensure the Bank is not able to access the U.S. financial system for terrorist financing or money laundering, or for any other criminal purpose.

2. Use of the information:

The collection of information in the proposed rule relates to both disclosure and recordkeeping. The information required to be disclosed by domestic financial institutions to a third-party—i.e., a one-time notice to correspondent account holders—is intended to ensure cooperation from correspondent account holders in denying access to the U.S. financial system, as well as to increase awareness within the international financial community of the risks and deficiencies of Banco Delta Asia. The information required to be maintained by domestic financial institutions will be used by federal agencies and certain self-regulatory organizations to verify compliance with the requirement that a domestic financial institution notify its correspondent account holders that they may not provide Banco Delta Asia with access to the correspondent account maintained at the institution.

3. Use of improved information technology to reduce burden:

Under the proposed rule, satisfactory notice could be given by including a one-time notice by mail, fax, e-mail, or including the notice in the next regularly occurring transmittal from the covered financial institution to its correspondent account holders. Financial institutions may use any method of improved information technology to document its compliance with the notice requirement in the proposed rule, including keeping an electronic copy of the actual notice that is sent to financial institutions.

4. Efforts to identify duplication:

The proposed rule is unique in that it would be the only federal rule prohibiting domestic financial institutions from maintaining correspondent accounts for Banco Delta Asia.

5. Methods used to minimize burden on small businesses or other small entities:

The information requirements in the proposed rule will not have a significant impact on a substantial number of small entities. Banco Delta Asia currently maintains a correspondent account at only a handful of banks in the United States. In addition, all U.S. financial institutions, currently apply some degree of due diligence to the transactions or accounts subject to sanctions administered by The Office of Foreign Assets Control (OFAC) of The Department of the Treasury. Thus, the one-time notice to correspondent account holders and the requirement to document compliance with that notice requirement are not expected to impose a significant additional economic burden upon small entities.

6. Consequences to Federal program or policy activities if collection is not conducted or is conducted less frequently:

Under the proposed rule, a financial institution must notify its correspondent account holders that they may not provide Banco Delta Asia with access to the correspondent account maintained at the financial institution. The failure to transmit such notice will make it more difficult for the special measure to achieve its goal of denying Banco Delta Asia with access to the U.S. financial system. A financial institution further must document its compliance with the requirement that it notify its correspondent account holders that they may not provide Banco Delta Asia with access to the correspondent account maintained at the covered financial institution. The failure to maintain such documentation will make it impossible to verify compliance with this notice requirement, and by extension, to guard against the use of the U.S. financial market by a financial institution found to be of primary money laundering concern.

7. Special circumstances requiring data collection inconsistent with the guidelines in 5 CFR 1320.5(d)(2):

Not applicable.

8. Efforts to consult with persons outside the agency.

The information collection is contained in a notice of proposed rulemaking. FinCEN has requested comment regarding the burden estimate and will carefully consider all comments received in response to the notice of proposed rulemaking when developing the final rule.

9. Payment or gift to respondents.

Not applicable.

10. Assurance of confidentiality provided to respondents and basis for the assurance in statute, regulation, or agency policy:

The information collected would be available to Treasury or its designee to verify compliance with the notice requirement; all such information collections under the BSA must further a criminal, tax, regulatory, or intelligence purpose, in accordance with 31 U.S.C. 5311.

11. Justification for questions of a sensitive nature:

Not applicable.

12. Burden estimate:

The proposed rule requires a financial institution to provide notice to its correspondent account holders and to document its compliance with that notice requirement.

Estimated number of affected financial institutions: 5,000.

Estimated average annual burden per affected financial institution: 1 hour.

Estimated annual hour burden: 5,000 hours.

The proposed rule applies to all domestic financial institutions that maintain correspondent accounts for foreign banks. There are approximately 5,000 such financial institutions doing business in the United States. Because the regulation is proposed, we are requesting only 1 hour of burden at this time.

13. Estimated total annual cost burden:

Unknown at this time. We will solicit comment with respect to cost burden in a Federal Register notice.

14. Estimated annualized cost to the Federal government:

Not applicable.

15. Change in burden:

None. This is a new collection, although financial institutions are accustomed to documenting their compliance with federal requirements.

16. Plans for tabulation or publication:

Not applicable.

17. Reason why display of expiration date for OMB approval is not appropriate:

Treasury requests that it not be required to display the expiration date, in order to avoid amending the regulation every three years.

18. Exception to the certification statement in OMB Form 83-I:

This collection will not have a significant impact on a substantial number of small entities, for the reasons discussed above in item 5. The collection also does not employ statistical survey methodology.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.