

Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks (31 CFR 103.177 and 31 CFR 103 Appendices A and B)  
Control Number 1506-0043

SUPPORTING JUSTIFICATION

1. Circumstances necessitating collection of information. Section 5318(j) of the Bank Secrecy Act prohibits certain financial institutions (called “covered financial institutions”) from maintaining correspondent accounts for foreign shell banks. In addition, under section 5318(k), covered financial institutions that maintain correspondent accounts for foreign banks must maintain records of owners of the foreign bank and the names and address of a person residing in the United States who is authorized to accept service of legal process for the foreign banks. The regulations implementing sections 5318(j) and 5318(k) appear at 31 CFR 103.177. Covered financial institutions may satisfy these requirements by using the sample certification and re-certification forms contained in Appendices A and B of the Bank Secrecy Act regulations. Records of documents relied upon by a financial institution for purposes of 103.177 must be maintained for at least five years after the date that the financial institution no longer maintains a correspondent account for such foreign bank.
2. Use of data. The information will be used (1) by law enforcement agencies to help prevent, detect, and prosecute international money launder and the financing of terrorism and ((2) by regulators of financial institutions to assess their compliance with the law. Without this information, it would be difficult to prevent foreign shell banks from accessing the United States financial system for the purpose of laundering money and facilitating other crimes.
3. Use of improved information technology to reduce burden. Use of improved information technology would not significantly reduce burden.
4. Efforts to identify duplication. We are not aware that any Federal agency currently collects this information.
5. Methods to minimize burden on small businesses or other small entities. The information requirements of these regulations should not pose any adverse impact on small businesses. Covered financial institutions that are subject to this rule tend to be large institutions.
6. Consequences of less frequent collection on Federal programs or policy activities. The information is collected annually with respect to a foreign bank that currently has a correspondent account with a domestic financial institution and upon the establishment of a

correspondent account by a foreign bank that does not currently maintain an account with the domestic financial institution. Less frequent collection of this information would frustrate Federal anti-money laundering efforts.

7. Special circumstances requiring data collection to be insistent with guidelines in 5 CFR 1320.5(d)(2). The recordkeeping requirement specifies that covered financial institutions retain records for five 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, and clarity of instructions and forms, and data elements. On February 12, 2008, FinCEN published a 60-day notice in the Federal Register (73 FR 8109) inviting public comment on this information collection. FinCEN received no comments.

9. Explanation of decision to provide any payment or gift to respondents.

Not Applicable

10. Assurance of confidentiality of responses. Disclosure of information provided by foreign banks to U.S. banking institutions is governed by the policies of the U.S. banking institutions and their regulators. The disclosure of information provided by U.S. banking institutions to federal law enforcement agencies is governed by applicable law.

11. Justification of sensitive questions. There are no questions of a sensitive nature in the collection of information.

12. Estimated burden of information collection.

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OMB Number: 1506-0043.

Current Action: There is no change to the existing regulations.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or for-profit institutions, and non-profit institutions.

Burden: It is estimated that 2,000 covered financial institutions maintain correspondent accounts with 9,000 foreign banks. The estimated average annual reporting burden

associated with Appendix A is 9,000 respondents at 20 hours per respondent; the estimated average annual reporting burden associated with Appendix B is 9,000 respondents at 5 hours per respondent; and the estimated average recordkeeping burden associated with section 103.177(e) is 9,000 respondents at 9 hours per recordkeeper.

13. Estimated total annual cost burden to respondents.

Not Applicable

14. Estimated annualized cost to the government.

Not Applicable

15. Reasons for change in burden.

Not Applicable

16. Plans for tabulation, statistical analysis and publication.

Not Applicable

17. Request not to display the OMB expiration date. Treasury requests that the expiration date of the control number of the regulation not be displayed so that the regulation will not have to be amended every three years just to reflect the change in the expiration date. This request will not affect the normal 3 year PRA renewal process.

18. Exceptions to the certification statement on OMB Form 83-I.

Not Applicable