

SUPPORTING STATEMENT

Emergency Authorization Request

Hizballah Financial Sanctions Regulations - Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts OMB Control No. 1505-NEW

This filing contains the information required by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521, and 5 CFR Part 1320.

A. **EMERGENCY JUSTIFICATION**: The Office of Foreign Assets Control (OFAC) is submitting an emergency request for OMB approval for the following reasons. On December 18, 2015, the President signed the Hizballah International Financing Prevention Act of 2015, Public Law 114-102 (HIFPA) into law. Section 102 (a)(1) of HIFPA requires that no later than 120 days after the date of the enactment the President shall prescribe regulations to prohibit or impose strict conditions on the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines engages in one or more of the following activities: (1) knowingly facilitating a significant transaction for Hizballah; (2) knowingly facilitating a significant transaction or transactions of a person identified on the List of Specially Designated Nationals and Blocked Persons (SDN List) maintained by OFAC, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) for acting on behalf of or at the direction of, or being owned or controlled by, Hizballah; (3) knowingly engaging in money laundering to carry out an activity described in (1) or (2); or (4) knowingly facilitating a significant transaction or transactions or providing significant financial services to carry out an activity described in (1), (2), or (3). On March 18, 2016, the President delegated to the Secretary of the Treasury in consultation with the Secretary of State the functions and authorities vested in the President by sections 102(a), 102(c), 204, and 302 of HIFPA.

To implement Treasury's delegated responsibilities under these provisions of HIFPA, OFAC published on April 15, 2016 in the Federal Register (81 FR 22185) a final rule issuing the Hizballah Financial Sanctions Regulations (the "Regulations") as a new Part 566 to 31 C.F.R. Chapter V. Section 566.504(b) of the regulations require a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution for which the maintaining of such an account has been prohibited to file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. This collection of information is essential to OFAC's mission because it is required by OFAC to monitor compliance with regulatory requirements regarding the closure of correspondent accounts and payable-through accounts maintained by a U.S. financial institution for a foreign financial institution when the maintaining of such accounts for a foreign financial institution has been prohibited pursuant to the Regulations, and it is needed prior to the expiration of time periods established under 5 C.F.R. Part 1320 because the publication of the Regulations is subject to a statutory deadline that will occur prior to the expiration of those time periods. OFAC cannot reasonably comply with the normal clearance procedures because the

normal clearance procedures would cause the statutory deadline for publication of regulations implementing HIFPA to be missed. OFAC is in the process of publishing a 60-day Federal Register Notice for public comment on the information collection and reporting requirements, after which OFAC plans to resubmit for OMB authorization for continued collection.

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1. Circumstances and Need

This application is submitted to authorize the information collection authority pertaining to the Regulations. The Regulations implement certain provisions of HIFPA. Pursuant to HIFPA, as implemented by the Regulations, OFAC may prohibit or impose strict conditions on the opening and/or maintaining in the United States of a correspondent account or a payable-through account by foreign financial institutions determined to have knowingly engaged in or facilitated certain sanctionable conduct. OFAC will add the names of any foreign financial institutions subject to these sanctions, together with the applicable prohibitions and/or conditions, to the List of Foreign Financial Institutions Subject to Part 566 (the "HFSR List").

Section 566.504(b) of the Regulations requires a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution for which the maintaining of such an account has been prohibited to file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. The report must include complete information on all transactions processed or executed in winding down and closing the account. This collection of information is required by OFAC to monitor compliance with regulatory requirements regarding the closure of correspondent accounts and payable-through accounts maintained by a U.S. financial institution for a foreign financial institution when the maintaining of such accounts for a foreign financial institution has been prohibited pursuant to the Regulations.

2. Use of Information Collected

Section 566.504(b) provides that a U.S. financial institution that maintained a correspondent account or payable-through account for a foreign financial institution listed on the HFSR List on OFAC's website (www.treasury.gov/ofac) as subject to a prohibition on the maintaining of such accounts must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account, including information regarding transactions processed or executed in connection with the wind-down or closure of the account. This collection of information is needed to verify that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions on the HFSR List. The reports will be reviewed by the U.S. Department of the Treasury and may be used for compliance, civil penalty, and enforcement purposes by the agency.

3. Use of Technology to Reduce Burden

OFAC anticipates that the information will generally be reported by letter. However, as a

general matter, information collected from U.S. financial institutions is increasingly submitted by automated, electronic, and computerized means. U.S. financial institutions may elect to submit the information by email to ofacreport@treasury.gov.

4. Efforts to Identify Duplication

The information collection is not duplicative within the meaning of the Paperwork Reduction Act and Office of Management and Budget regulations. The information that OFAC requires pertains to particular accounts at U.S. financial institutions and is not available other than through a specific report. Each individual report is based upon a new, one-time action to close one or more correspondent accounts or payable-through accounts. Thus, there is no duplication of records.

5. Minimizing the Burden on Small Business

There is no undue burden on small business. OFAC does not anticipate that any U.S. financial institution required to report under the Regulations would be considered a small business or other small entity, as correspondent accounts tend to be maintained by larger financial institutions. However, should a small business or other small entity be required to report, the requirement is not expected to be onerous.

6. Consequences of Less Frequent Collections

If the collection is not conducted and the reports not filed, there possibly could be circumvention of sanctions that have been imposed against foreign financial institutions pursuant to HIFPA.

Generally, the information could not be collected less frequently unless it was not collected at all. The reports are submitted only when a U.S. financial institution closes one or more correspondent accounts or payable-through accounts. To collect the information less frequently would result in incomplete records of closed correspondent and payable-through accounts, prevent OFAC from tracking and ensuring compliance with the Regulations, and potentially lower the chances of pursuing appropriate potential civil penalty or other enforcement actions.

7. Special Circumstances.

- *Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*

The Reporting, Procedures and Penalties Regulations, 31 CFR Part 501, require the retention of records for five years from the date of a restricted transaction subject to the provisions of 31 CFR chapter V or from the date that blocked property is unblocked. Under § 501.601, the requirement for five years of record retention beyond a transaction corresponds to

the statute of limitations set forth in 28 U.S.C. 2462. Five years is also the record retention period applicable to most other records of the financial institutions subject to this requirement, pursuant to regulations implementing the Bank Secrecy Act. See 31 C.F.R. § 1010.430(d).

- *Requiring respondents to submit proprietary trade secret, or other confidential information unless the bureau can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The information requested may include confidential business information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and consistent with the Privacy Act and Trade Secrets Act. See 31 C.F.R. § 501.805 and 31 C.F.R. part 1.

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

8. Consultation with Persons Outside the Agency.

This request is being submitted for emergency processing. A Federal Register notice soliciting public comments will be submitted pursuant to this process. Consultation with persons outside the agency in advance of publication of the Regulations is impracticable in light of the statutory deadline for publication.

9. Payment or Gift.

Respondents receive no payment or gifts for completing or retaining the certifications.

10. Confidentiality.

The information requested may include confidential business information. OFAC will ensure that this information will not be publicly released except to the extent required by law. Information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. See 31 C.F.R. § 501.805 and 31 C.F.R. part 1.

11. Questions of a Sensitive Nature.

The reporting makes no request for Personally Identifiable Information (PII) or sensitive information of this type.

12. Estimates of Annualized Hour Burden and Associated Cost

The likely respondents and recordkeepers affected by the new collection of information in section 566.504(b) are U.S. financial institutions operating correspondent accounts or payable-through accounts for foreign financial institutions. Because this is a new collection of information, OFAC cannot predict the response rate for the section 566.504(b) reporting requirement at this time. For future submissions, OFAC will report retrospectively on the response rate during the previous reporting period.

The estimated average reporting/recordkeeping burden is 2 hours per response.

13. Capital/Start-up and Operation/Maintenance Costs

There are no annualized or start-up costs associated with this collection.

14. Annualized cost to the Federal Government

Not applicable.

15. Reason for Change in Burden

This is a new collection.

16. Publication

Collected information will not be published.

17. Display of Expiration Dates

Not applicable.

18. Exceptions to Certification

Not applicable.