

SUPPORTING STATEMENT
OMB 1505-0168
Persons Providing Travel and Carrier Services

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. Justification.

1. Circumstances Making the Collection Necessary.

This application is submitted to revise the information collection authority pertaining to the Cuban Assets Control Regulations set forth in 31 CFR part 515 (the “Regulations”). The Regulations are implemented pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1-44) and other applicable statutes. This information is required by the Office of Foreign Assets Control (OFAC) to implement its compliance and enforcement programs with respect to regulatory requirements regarding persons providing authorized travel and carrier services with respect to Cuba.

As a result of policy changes announced by the President on December 17, 2014, which were implemented in regulatory changes published by OFAC on January 16, 2015 (80 FR 2291), June 15, 2015 (80 FR 34053), September 21, 2015 (80 FR 56915), January 27, 2016 (81 FR 4583), and March 16, 2016 (81 FR 13989), persons subject to U.S. jurisdiction are authorized by general license to engage in travel-related transactions involving Cuba within the 12 existing travel categories in the Regulations. Additionally, OFAC may authorize by specific license travel-related transactions within the 12 categories that do not fall within the scope of a general license.

In addition, OFAC generally authorized persons subject to U.S. jurisdiction, including travel agents, airlines and vessel operators, to provide travel and carrier services in connection with travel-related transactions authorized by the Regulations. See 31 CFR § 515.572. As to information collection requirements, prior to January 2015, OFAC required licensed travel service providers (TSPs) to gather certain personal data about authorized travelers and provide it to carrier service providers (CSPs), which then submitted this and certain additional information to OFAC. OFAC now requires only that persons subject to U.S. jurisdiction providing services authorized pursuant to 31 CFR § 515.572 obtain and retain for at least five years from the date of the transaction a certification from each customer indicating the section of the Regulations that authorizes the person to travel to Cuba. In the case of a customer traveling under a specific license, a copy of the license must be maintained on file with the person subject to U.S. jurisdiction providing services authorized pursuant to 31 CFR § 515.572. These records must be furnished to OFAC on demand.

2. Purpose and Use of the Information Collected.

The information collected is used by OFAC to implement its compliance and enforcement programs pursuant to the Regulations, including with respect to whether travel-related transactions involving Cuba are authorized pursuant to the Regulations. Specifically, the information may be requested by OFAC to verify that travelers to Cuba are authorized by OFAC

to engage in such travel and facilitate OFAC's addressing of potential violations of the Regulations.

3. Consideration Given to Information Technology.

The use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology is not applicable to this collection. Persons providing travel and air carrier services determine how to gather and retain the certification showing compliance with the relevant travel provisions of the Regulations from travelers.

4. Duplication of Information.

Generally, the information that OFAC requires pertains to individual travelers with individual travel itineraries and is not available other than if obtained from each traveler. Each individual certification is separate and unique. Further, requiring each person providing travel or carrier services to an authorized traveler to obtain the certification serves a distinct compliance and enforcement purpose, as discussed further in Section 8 below. Thus, there is no duplication of records.

5. Reducing the Burden on Small Entities.

The storage of the required certifications showing compliance with the relevant travel provisions of the Regulations for five years will affect small businesses or other small entities that provide authorized travel and carrier services, but this requirement is not expected to be onerous.

6. Consequences of not Conducting Collection.

The information collected is used primarily by the Department of the Treasury for compliance and enforcement purposes. This information is used to determine whether transactions are conducted consistent with the regulatory authorization. Without these collections of information, provisions for authorizing otherwise prohibited transactions cannot be monitored and enforced.

Generally, the information could not be collected less frequently unless it was not collected at all. A certification is only collected from a traveler to Cuba when a person is providing authorized travel or carrier services. To collect the information less frequently would result in incomplete records regarding travel to Cuba, prevent OFAC from ensuring compliance with the Regulations, and jeopardize 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.

• *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 personal identification information needed for law enforcement purposes. Where such information is provided to OFAC, OFAC will ensure that this information will not be publicly released except to the extent allowed 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. Information about OFAC's privacy practices has been issued under OFAC's Privacy Act system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

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.

A copy of the Federal Register notice of March 1, 2016, soliciting comments can be found at 81 FR 10717. In response to this notice, OFAC received one comment from an airline trade association regarding OFAC's revised information collection and retention requirements for persons subject to U.S. jurisdiction providing authorized air carrier services to or from Cuba. The commenter articulated two main concerns: (1) that the current information collection and retention requirements are unnecessary and duplicative; and (2) that it is overly burdensome for air carriers subject to the requirements to collect and retain such information. A copy of the comment is being made available in connection with this Supporting Statement.

OFAC has thoroughly reviewed and assessed this comment. As set forth below, OFAC has determined that the collection and retention of the required information is necessary for the proper performance of the agency and the burden of collection and retention is justified.

Whether the collection of information is necessary for the proper performance of the agency.

Comment: The commenter argues that requiring air carriers to collect authorized passengers' names and addresses, and a certification relating to each passenger's status as an authorized traveler, and to maintain these records for five years is unnecessary and duplicative in light of the requirement that individual passengers separately retain certification information for five years.

Response: This argument overlooks the independent role of air carriers in compliance and enforcement. Pursuant to 31 CFR § 515.572, air carrier service providers subject to U.S. jurisdiction are solely authorized to provide services relating to Cuba to the extent such services are provided to authorized travelers. Air carriers wishing to provide services relating to Cuba therefore have an independent compliance obligation to ensure that their passengers are

authorized travelers, which they are able to satisfy by obtaining the required certification from individual travelers. Indeed, prior to the recent regulatory easing, air carriers' information collection, reporting and recordkeeping obligations were much more substantial.¹ Pursuant to section 515.572, air carriers now satisfy this requirement by collecting and retaining essentially three required information fields. While recent regulatory changes seek to facilitate authorized travel to and from Cuba, Cuba remains subject to an economic embargo with accompanying statutory and regulatory restrictions. Eliminating the information collection or recordkeeping requirement for air carriers would significantly compromise OFAC's ability to fully implement its necessary compliance and enforcement programs. While individual authorized travelers and persons providing authorized travel services to such travelers are also required to maintain records relating to their authorized transactions, which may include similar or identical information to the certification air carriers are required to obtain, the application of the certification collection requirement to air carriers is not duplicative in light of the air carriers' distinct compliance obligation described above.

Whether the burden of collection is justified.

Comment: The commenter argues that it would be unduly burdensome to require air carriers to update their existing reservation and information systems in order to account for the revised information collection and retention requirements as these systems are not easily modified and are subject to worldwide industry standards. The commenter stated, for example, that the passenger's address is not currently a required field and there are similar issues with respect to passenger certifications.

Response: While OFAC acknowledges that there will be some burden associated with this requirement, the burden is justified in light of compliance and enforcement needs. The recent regulatory changes significantly eased information collection and reporting requirements for air carriers, both in terms of the amount of information to be collected and in the removal of the mandatory reporting requirement. These changes reduced the requirements to what is necessary for OFAC to effectively implement its compliance and enforcement programs. In addition, the Regulations do not prescribe any particular means by which the required information must be collected and retained. For example, in cases where air travel is booked through a third party, the airline may obtain the required certification from that third party, and is not required to separately obtain it directly from the traveler at the time of booking or when the traveler checks in for the flight or boards the airplane. The air carriers therefore have flexibility to implement the requirements in the least costly manner. Based on information available to OFAC, viable technical solutions exist, particularly with respect to collecting and retaining customer names, addresses, and certifications. OFAC will continue to accept and evaluate

¹ The information collection and retention requirements for persons subject to U.S. jurisdiction providing travel and carrier services were significantly eased on January 16, 2015, to implement certain policy changes announced by the President on December 17, 2014. Prior to January 2015, TSPs and CSPs were required to obtain specific licenses to provide services. In addition, TSPs were required to gather certain personal data about authorized travelers and provide it to CSPs and CSPs were required to submit this and certain additional information to OFAC. Previously, CSPs were required to provide OFAC with the following personal information for each traveler to or from Cuba: full name, including mother's maiden name; address; date of birth; passport country of issuance and number; and category of travel under the Regulations authorizing the travel. In January 2015, OFAC removed the specific license and mandatory reporting requirements for air carriers and significantly reduced the amount and type of information that air carriers are required to collect and retain in order to facilitate authorized travel to and from Cuba.

feedback on these issues.

9. Payment or Gift.

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

10. Confidentiality.

The information requested may include personal identification information needed for law enforcement purposes. OFAC will ensure that this information will not be publicly released except to the extent allowed 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. For further information about OFAC's privacy practices, please see OFAC's system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (76 FR 4995).

11. Questions of a Sensitive Nature.

The information requested makes no request for sensitive information of this type.

12. Burden of Information Collection.

The estimated number of entries is up to 1,750,000 annually, for all persons providing authorized travel and carrier services in the aggregate. It is estimated that the time required to complete the certification is approximately one minute. At one minute each, the certifications to be completed by individuals traveling to Cuba under a general authorization in the Regulations will take approximately 1,750,000 minutes (29,167 hours) annually in the aggregate. Additionally, for persons providing authorized travel or carrier services, there may be some burden associated with developing or modifying systems in order to collect the required certification. The record keeping burden associated with maintaining the certifications for five years will be addressed in OMB 1505-0164.

13. Annual Cost to Respondents.

The burden imposed on persons providing authorized travel and carrier services by this information collection requirement is minimal as the certification that is collected and stored for each relevant transaction may be in any form, as determined by such persons. At one minute per certification, there is no practical cost to individual travelers associated with this burden.

14. Cost to the Federal Government.

There is no cost to the U.S. Government attributable to this information collection effort that would not have been incurred without the paperwork burden.

15. Reason for Change.

As a result of policy changes announced by the President on December 17, 2014, which were implemented in the regulatory changes published by OFAC on January 16, 2015 (80 FR

2291), June 15, 2015 (80 FR 34053), September 21, 2015 (80 FR 56915), January 27, 2016 (81 FR 4583), and March 16, 2016 (81 FR 13989) concerning the Cuban Assets Control Regulations (31 CFR 515), program changes have occurred. These changes, which encourage travel to Cuba coupled with arrangements announced by the Departments of State and Transportation allowing scheduled air service between the United States and Cuba, will significantly increase the ability of U.S. citizens to travel to Cuba to directly engage with the Cuban people, thus resulting in the estimated increase of 750,000 responses annually.

The increase of 750,000 respondents is attributed to these program changes. A total of 29,167 burden hours is requested.

16. Tabulation of Results, Schedule, and Analysis Plans.

Results will not be published.

17. Display of OMB Approval Date.

Not applicable.

18. Exceptions to Certification For Paperwork Reduction Act Submission.

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

Not applicable.