

Supporting Statement
OMB Control Number 1506-XXXX (New Collection)
Imposition of Special Measure Against ABLV
As a Financial Institution of Primary Money Laundering Concern
31 CFR Chapter X

JUSTIFICATION

1. Circumstances that make the collection necessary:

The Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury issued a notice of proposed rulemaking under the authority of section 5318A of Title 31, United States Code, to impose a special measure against ABLV Bank (ABLV). FinCEN has determined that ABLV is a foreign financial institution of primary money laundering concern and is proposing the imposition of the first special measure—which would prohibit covered financial institutions from maintaining correspondent accounts for, or on behalf of, ABLV. In addition, covered financial institutions would be required to take reasonable steps not to process a transaction for the correspondent account in the United States of a foreign banking institution if such a transaction involves ABLV. Covered financial institutions would also be required to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions by ABLV to ensure that they are not used to process transactions involving ABLV. These additional due diligence steps are necessary to help ensure that ABLV cannot continue accessing the U.S. financial system indirectly.

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 ABLV. 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 ABLV 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 ABLV as well as processing transactions involving ABLV.

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. At this juncture, ABLV does not maintain a correspondent account with 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 ABLV 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 ABLV 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 ABLV 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):

There are no inconsistent circumstances with the referenced guidelines.

8. Efforts to consult with persons outside the agency.

The information collection is contained in a notice of proposed rulemaking published in the Federal Register on February 16, 2018, (See 83 FR 6986), which requested comments for a 60-day period.

9. Payment or gift to respondents.

There are no payments or gifts to respondents.

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:

There are no questions of a sensitive nature.

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: 5,787.

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

Total estimated annual hour burden: 5,787 hours.

The proposed rule applies to all domestic financial institutions that maintain correspondent accounts for foreign banks. There are approximately 5,787 such financial institutions doing business in the United States.

13. Estimated total annual cost burden:

Total estimated burden cost: 5,787 hours X \$33.77 per hour = \$195,427¹

14. Estimated annualized cost to the Federal government:

There is no cost to the government. There is no collection of information.

15. Change in burden:

¹ The above Average Hourly Wage Rate is calculated from the May 2016 Bureau of Labor Statistics average wage for "13-1041 Compliance Officers" of \$33.77.

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

16. Plans for tabulation or publication:

There are no plans for tabulation or publication.

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:

This collection will not have a significant impact on a substantial number of small entities, for the reasons discussed above in item 5. There are no exceptions to the certification statement. The collection also does not employ statistical survey methodology.