

Supporting Statement
OMB Control Number 1506-0043

Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks (31 CFR 1010.630)

1. Circumstances necessitating collection of information.

The statute generally referred to as the “Bank Secrecy Act” (“BSA”), Titles I and II of Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA regulations has been delegated to the Director of the Financial Crimes Enforcement Network (“FinCEN”).

Section 5318(j) of the BSA prohibits covered financial institutions² 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 1010.630.

Covered financial institutions may satisfy these requirements by using the sample certification and re-certification forms found on the FinCEN website at <https://www.fincen.gov/sites/default/files/shared/Certification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf> and <https://www.fincen.gov/sites/default/files/shared/Recertification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf>.

Records of documents relied upon by a financial institution for purposes of 1010.630 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. Method of collection and use of data.

The information will be requested by FinCEN from a financial institution and emailed to

¹ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56 (“USA PATRIOT Act”).

² See 31 CFR 1010.605(e) for a list of covered financial institutions.

the requestor(s) at FinCEN.

The information will be used (1) by law enforcement agencies to help prevent, detect, and prosecute international money laundering 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 U.S. 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 inconsistent 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, clarity of instructions and forms, and data elements.

On August 22, 2018, FinCEN published a 60-day notice in the Federal Register (83 FR 42555) inviting public comment on this information collection. FinCEN received no comments.

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

No payments or gifts were made to respondents.

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 & 13. Estimated burden & cost of information collection.

Information Collection	# of Respondents	Annual # of Responses per Respondent	Total Responses	Hours per response	Total Hours	Labor Cost per Hour	Total Labor Costs
Certification	2000	4.5	9000	20	180,000	\$63.53 ³	\$11,435,400
Re-certification	2000	4.5	9000	5	45,000	\$63.53	\$2,858,850
Recordkeeping	2000	4.5	9000	9	81,000	\$63.53	\$5,145,930
TOTAL			27,000		306,000		\$19,440,180

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 certification is 180,000 hours (9,000 responses at 20 hours per response); the estimated average annual reporting burden associated with recertification is 45,000 hours (9,000 responses at 5 hours per response); and the estimated average recordkeeping burden associated with section 1010.630(e) is 81,000 hours (9,000 responses at 9 hours per response).⁴

There are no non-labor costs associated with this collection of information.

³ The above Average Hourly Wage Rate is calculated from the May 2017 Bureau of Labor Statistics average hourly wage for “13-2061 Financial Examiners” of \$44.12, plus an additional 44% for benefits to produce a fully-loaded rate of \$63.53.

⁴ FinCEN does not have an independent method to determine the exact number of foreign bank certifications and recertifications in any given year because depository institutions do not file the model form with FinCEN and only provide the data upon FinCEN’s request. Accordingly, FinCEN has chosen to take an expansive approach in its estimates of yearly certifications and recertifications.

14. Estimated annualized cost to the Federal government.

There is no cost to the government.

15. Reasons for change in burden.

There is no change in burden.

16. Plans for tabulation, statistical analysis and publication.

This information will not be tabulated, statistically analyzed, or published.

17. Request not to display the OMB expiration date.

FinCEN requests that the expiration date of the control number of the regulation not be displayed so that there is no confusion as to whether the certification form is still valid. This request will not affect the normal 3-year Paperwork Reduction Act renewal process.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.