

SUPPORTING STATEMENT
Iranian Financial Sanctions Regulations Report on Closure
by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts
OMB Control No. 1505-0243

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. 3501-3520, and 5 CFR part 1320.

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary.

This application is submitted to extend the information collection authority pertaining to the Iranian Financial Sanctions Regulations set forth in 31 C.F.R. part 561 (the “Regulations”). The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is amending the Iranian Financial Sanctions Regulations to implement section 2 of Executive Order 13871 of May 8, 2019 (“Imposing Sanctions With Respect to the Iron, Steel, Aluminum and Copper Sectors of Iran”) (E.O. 13871).

As amended, the Regulations implement, *inter alia*, Section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (22 U.S.C. 8513), Section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) (22 U.S.C. 8513a(d)), Executive Order 13846 of August 6, 2018, “Reimposing Certain Sanctions With Respect to Iran” (E.O. 13846), and E.O. 13871.

Pursuant to CISADA, the NDAA, E.O. 13846, and E.O. 13871, as implemented by the Regulations, OFAC will 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 a foreign financial institution (FFI)¹ determined to have knowingly engaged in or facilitated certain sanctionable conduct. OFAC will add the names of any FFIs subject to these sanctions, together with the applicable prohibitions and/or conditions, to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (the “CAPTA List”).

Section 561.504(b) of the Regulations requires a U.S. financial institution that maintained a correspondent account or a payable-through account for a FFI 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

¹ The term foreign financial institution (FFI) means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by the Office of Foreign Assets Control.

closing the account. This information is required by OFAC to monitor compliance with regulatory requirements regarding the closure of correspondent accounts or payable-through accounts maintained by a U.S. financial institution for a FFI when the maintaining of such accounts for a FFI has been prohibited pursuant to the Regulations.

To implement section 2 of E.O. 13871, OFAC is issuing a new rule that amends the Regulations and expands the potential for sanctions related to the iron, steel, aluminum, and copper sectors of Iran, specifically providing OFAC the authority to impose sanctions on FFIs determined to have knowingly conducted or facilitated certain financial transactions related to these sectors as described in section 2(a) of E.O. 13871. Section 2(b) of E.O. 13871 provides that OFAC may prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or payable-through account by such FFI. OFAC anticipates very minimal change in reporting and burden from this new authority.

2. Purpose and Use of the Information Collection.

Section 561.504(b) specifies that a U.S. financial institution that maintained a correspondent account or payable-through account for an FFI whose name is added to the CAPTA List on OFAC's website (www.treasury.gov/ofac) as subject to a prohibition on the maintaining of such accounts pursuant to sections 561.201(c), 561.203(c)(2), 561.204(c)(2), 561.205(a), or 561.205(c) of the Regulations 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. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for FFIs subject to such prohibitions pursuant to the Regulations. The reports will be reviewed by the U.S. Department of the Treasury and may be used for compliance and enforcement purposes by the agency.

3. Consideration Given to Information Technology.

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.

4. Duplication of Information.

The information collection is not duplicative of information otherwise available to OFAC. The information that OFAC requires pertains to 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 for FFIs for which the maintaining of such an account has been prohibited pursuant to the Regulations and which has been named on the CAPTA List. Thus, there is no duplication of records.

5. Reducing the Burden on Small Entities.

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 or payable-through 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 Not Conducting Collection.

If the collection is not conducted and the reports not filed, there possibly could be undetected circumvention of sanctions that have been imposed against FFIs pursuant to CISADA, the NDAA, E.O. 13846, or E.O. 13871

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 for FFIs for which the maintaining of such an account has been prohibited pursuant to the Regulations and which has been named on the CAPTA List. To collect the information less frequently would result in incomplete records of closed correspondent and payable-through accounts, preventing OFAC from tracking and ensuring compliance with the Regulations and potentially lowering the chances of pursuing appropriate potential enforcement actions.

7. Special Circumstances.

- *Requiring respondents to report information to the bureau more often than quarterly;*

The Regulations require that a report must be filed with OFAC within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution for which the maintaining of such an account has been prohibited pursuant to the Regulations and which has been named on the CAPTA List, maintained on OFAC's website (www.treasury.gov/ofac).

- *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, which are covered by a separate OMB authorization, require the retention of records for five years from the date of a covered transaction or, for blocked property, for the duration that the property is blocked and for five years from the date that the 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.

- *That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with*

other agencies for compatible confidential use;

It is the policy of OFAC to protect the confidentiality of information as appropriate pursuant to the exemptions from disclosure provided under the Freedom of Information Act (FOIA) (5 USC § 552) and consistent with the Privacy Act (5 USC § 552A) and the Trade Secrets Act (18 USC § 1905). Treasury's FOIA and Privacy Act regulations are at 31 CFR Subparts A and C, respectively.

- *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 is financial account information for enforcement purposes. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under FOIA and consistent with the Privacy Act and Trade Secrets Act.

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR § 1320.6.

8. Consultations with Persons Outside the Agency.

OFAC is revising this Information Collection Request due to a new rule being published to implement an Executive Order that has the potential to minimally expand the number of reports received. Advanced public comment on this action is not possible as it is being published as a direct final rule. The rule does not change the existing approved information collection requirements, but only expands the circumstances in which a response might be necessary.

9. Payment or Gift.

Not applicable. OFAC is not making any payments or gifts.

10. Confidentiality.

The information requested is financial account information needed for 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 FOIA, 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 (SORN): Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

11. Questions of a Sensitive Nature.

The information collection makes no request for sensitive information of this type. In

addition, a privacy impact assessment (PIA) has been conducted for information collected under this request and a Privacy Act SORN has been issued for this system under DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

12. Burden of Information Collection.

This new rule may potentially affect a few more respondents but the anticipated impact is minimal. The likely respondents and recordkeepers affected by this collection of information in section 561.504(b) are U.S. financial institutions operating correspondent accounts or payable-through accounts for FFIs.

Since the date this reporting requirement was added to the Regulations (February 27, 2012) through the present (August 6, 2019), OFAC added the names of two FFIs to the Part 561 List, with one entity subsequently removed in 2013. The Part 561 List ceased to exist on March 14, 2019. The one entity on the Part 561 List at that time was moved to the CAPTA List.² No FFI was added to this list during the current reporting period, and the number of respondents to this collection has been zero. For future submissions, OFAC will continue to report retrospectively on the number of respondents during the previous reporting period.

The estimated average reporting/recordkeeping burden is 2 hours per response. To calculate the cost burden, OFAC uses the median wage rate published by the Bureau of Labor and Statistics for compliance officers which, as of October 2018, is \$32.63/hour. OFAC estimates the total cost to be approximately \$65.26. OFAC estimates that there may be potentially 2 more reports following the issuance of the new rule for a total estimated burden of 6 hours and \$130.52.

13. Annual Cost to Respondents.

There are no capital/start-up or ongoing operation/maintenance costs associated with this collection.

14. Cost to the Federal Government.

There is no cost to the Federal Government because OFAC is not receiving or processing any reports.

15. Reason for Change.

As a result of the rule, OFAC estimates that there may be an increase of 2 responses and 4 hours of burden.

² The CAPTA List is designed to contain FFIs from several programs, including those designated pursuant to: the Ukraine Freedom Support Act of 2014, as amended by the Countering America's Adversaries Through Sanctions Act; the North Korea Sanctions Regulations, 31 C.F.R. part 510; the Iran Freedom and Counter-Proliferation Act of 2012; the Regulations; the Hizballah Financial Sanctions Regulations, 31 C.F.R. Part 566; Executive Order 13846; Executive Order 13871; and 31 CFR part 561.204. The entity that was moved from the Part 561 List to the CAPTA List is on the CAPTA List pursuant to 31 CFR part 561.

16. Tabulation of Results, Schedule, Analysis Plans.

There are no such data or figures given the limited nature of this collection.

17. Display of OMB Approval Date.

OFAC intends to display the expiration date.

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.