

Supporting Statement
OMB Control Number 1506-0036

Imposition of Special Measure Against Commercial Bank of Syria, including its subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

On March 15, 2006 the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury issued a final rule under the authority of section 5318A of Title 31, United States Code, to impose a special measure with respect to Commercial Bank of Syria, including its subsidiary, Syrian Lebanese Commercial Bank, as a financial institution of Primary Money Laundering Concern.¹ Specifically, FinCEN imposed the special measure selected—prohibiting domestic financial institutions from maintaining foreign correspondent accounts with the Commercial Bank of Syria—as a necessary step to ensure that Commercial Bank of Syria is not able to access the U.S. financial system.

2. Use of the information:

The collection of information in the 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 Commercial Bank of Syria. The information required to be maintained by domestic financial institutions will continue to 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 Commercial Bank of Syria with access to the correspondent account maintained at the institution.

3. Use of information technology to reduce burden:

Under the 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 information technology to document their compliance with the notice requirement in the rule, including keeping an electronic copy of the actual notice that is sent to financial institutions.

¹ The Commercial Bank of Syria was further defined in Section 1010.653 of the C.F.R. to mean any branch, office, or subsidiary of Commercial Bank of Syria operating in Syria or in any other jurisdiction, including Syrian Lebanese Commercial Bank.

4. Efforts to identify duplication:

The rule is unique in that it is the only federal rule explicitly prohibiting domestic financial institutions from maintaining correspondent accounts for Commercial Bank of Syria.

5. Methods used to minimize burden on small businesses or other small entities:

Typically, financial institutions engaged in correspondent banking are larger financial institutions. 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 economic burden on covered financial institutions. For these reasons, the information requirements in the rule will not have a significant impact on a substantial number of small entities.

6. Consequences to Federal program or policy activities if collection is not conducted or is conducted less frequently:

Under the rule, a financial institution must notify its correspondent account holders that they may not provide Commercial Bank of Syria 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 Commercial Bank of Syria 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 Commercial Bank of Syria, 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 special circumstances that will cause the information collection to be inconsistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

On March 15, 2006, FinCEN published the final rule in the Federal Register. (See 71 FR 13260) Previously, in a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on May 18, 2004 (See 69 FR 28098), FinCEN (1) proposed a prohibition on covered financial institutions from opening or maintaining a correspondent account in the United States for, or on behalf of, Commercial Bank of Syria, including its subsidiary, Syrian Lebanese Commercial Bank; (2) proposed a prohibition on covered

financial institutions from processing a transaction involving Commercial Bank of Syria, including its subsidiary, Syrian Lebanese Commercial Bank, through the United States correspondent account of a foreign banking institution; and (3) proposed a requirement for covered financial institutions to apply special due diligence to their foreign correspondent accounts that was reasonably designed to guard against their use to process transactions involving Commercial Bank of Syria, including its subsidiary, Syrian Lebanese Commercial Bank. After the comment period for the NPRM closed on June 17, 2004, FinCEN adopted the proposal as the final rule published on March 15, 2006. In so doing, FinCEN considered public comments and the relevant statutory factors, and engaged in the required consultations prescribed by 31 U.S.C. 5318A.

On December 19, 2019, FinCEN published in the Federal Register a notice and request for comments of its intention to renew without change information collection requirements (ICRs) in connection with the imposition of a special measure concerning Commercial Bank of Syria as a financial institution of primary money laundering concern. (See 84 FR 69822) The comment period for that notice closed on February 18, 2020, and no comments were received.

9. Payment or gift to respondents.

No payment or gift will be provided 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 Bank Secrecy Act (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 in the collection of information. Any personally identifiable information collected under the BSA is strictly controlled as outlined in FinCEN's Systems of Records Notice http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf.

12. Burden estimate:

The 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: 23,615.²

² The above Estimated Number of Affected Financial Institutions is based on sum of the following numbers:

- 5,358 banks [Federal Deposit Insurance Corporation, *Key Statistics* webpage, April 25, 2019];
- 5,375 federally-insured credit unions [National Credit Union Administration, *Quarterly Credit*

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

Estimated annual hour burden: 23,615 hours.

When the final rule was published in March 2006, the number of financial institutions affected by the rule was estimated at 5,000. FinCEN has since revised the estimated number of affected financial institutions upward to account for all domestic financial institutions that could potentially maintain correspondent accounts for foreign banks, and to ensure that all U.S. financial institutions are conducting their due diligence and not processing transactions that may involve Commercial Bank of Syria.

There are approximately 23,615 such financial institutions doing business in the United States. As noted, this revision should not have a significant impact on a substantial number of small entities. In addition, all U.S. persons, including U.S. financial institutions, currently exercise some degree of due diligence in order to comply with existing U.S. sanctions programs applicable to Commercial Bank of Syria.

13. Estimated total annual cost burden:

$$23,615 \text{ hours} \times 49.52^3 \text{ per hour} = \$1,169,415$$

14. Estimated annualized cost to the Federal government:

There is no estimated annualized cost to the Federal Government.

15. Change in burden:

When the final rule was published in March 2006, the number of financial institutions affected by the rule was estimated at 5,000. FinCEN has since revised the estimated number of affected financial institutions upward to account for all domestic financial institutions that could potentially maintain correspondent accounts for foreign banks, and recognizing that, under the final rule, all U.S. financial institutions are required to conduct special due diligence with respect to, and are prohibited from processing transactions involving, financial institutions named in the final rule.

Union Data Summary, December 31, 2018];

- 125 privately-insured credit unions [General Accountability Office, *PRIVATE DEPOSIT INUSRANCE: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, March 2017];
- 1,130 introducing brokers [National Futures Association website, March 31, 2019];
- 64 futures commission merchants [National Futures Association website, March 31, 2019];
- 3,607 securities firms [Financial Industry Regulatory Authority website, December 31, 2018]; and,
- 7,956 U.S. mutual funds [Investment Company Institute, *2018 Factbook*, 2018].

³ The above Average Hourly Wage Rate is calculated from the May 2017 Bureau of Labor Statistics average hourly wage for “13-1041 Compliance Officer” of \$34.39, plus an additional 44% for benefits to produce a fully-loaded rate of \$49.52.

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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 in OMB Form 83-I:

This collection will not have a significant impact on a substantial number of small entities, for the reasons discussed above in item 5. The collection also does not employ statistical survey methodology.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.