

Supporting Statement  
OMB Control Number 1506-0074

Imposition of Special Measure Against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern Under 31 CFR Chapter X

**A. JUSTIFICATION**

1. Circumstances that make the collection necessary:

The Financial Crimes Enforcement Network (FinCEN) exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act” (USA PATRIOT Act) of 2001 and other legislation. This legislative framework is commonly referred to as the “Bank Secrecy Act” (BSA).<sup>1</sup> The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.<sup>2</sup> Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that “have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”<sup>3</sup>

On October 24, 2019, FinCEN issued a final rule under the authority of section 5318A of title 31, United States Code, to impose a special measure with respect to the Islamic Republic of Iran as a jurisdiction of primary money laundering concern.<sup>4</sup> FinCEN determined that Iran is a jurisdiction of primary money laundering concern, and that the imposition of the special measure selected--prohibiting domestic financial institutions from maintaining foreign correspondent accounts with Iranian banking institutions--is a necessary step to ensure that Iran is not able to access the U.S. financial system in connection to its terrorist financing or weapons proliferation efforts, or money laundering, or for any other criminal purpose.

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 the Islamic Republic of Iran. The

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<sup>1</sup> The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR Chapter X. See 31 CFR 1010.100(e).

<sup>2</sup> Treasury Order 180-01 (January 14, 2020).

<sup>3</sup> 31 U.S.C. 5311.

<sup>4</sup> 81 FR 14840.

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 Iranian financial institutions with access to the correspondent account maintained at the institution.

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

4. Efforts to identify duplication:

The rule is unique in that it would be the only federal rule prohibiting domestic financial institutions from maintaining correspondent accounts for Iran.

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 Iranian financial institutions 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 the Islamic Republic of Iran 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 Iranian financial institutions 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 jurisdiction 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 January 29, 2020, FinCEN published in the Federal Register a notice and request for comments of its intention to renew, without change, information collection requirements in connection with the imposition of a special measure concerning the Islamic Republic of Iran as a jurisdiction of primary money laundering concern. (See 85 FR 5276.) The comment period for that notice closed on March 30, 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 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 Bank Secrecy Act is strictly controlled as outlined in FinCEN's Systems of Records Notice.  
[https://www.fincen.gov/sites/default/files/shared/FinCEN\\_79\\_FR\\_20969.pdf](https://www.fincen.gov/sites/default/files/shared/FinCEN_79_FR_20969.pdf).

12. Burden estimate:

Frequency: The rule requires a financial institution to provide a one-time notice to its correspondent account holders and to document its compliance with that notice requirement.

Estimated number of affected financial institutions: 23,615.<sup>5</sup>

<sup>5</sup> The above Estimated Number of Affected Financial Institutions is based on the 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 Union Data Summary*, December 31, 2018];
- 125 privately-insured credit unions [General Accountability Office, *PRIVATE DEPOSIT INSURANCE: 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];

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

Estimated annual hour burden: 23,615 hours.

FinCEN's estimated number of affected financial institutions accounts 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 Iranian financial institutions.<sup>6</sup>

There are approximately 23,615 such financial institutions doing business in the United States. As noted, this 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 the Islamic Republic of Iran.

13. Estimated total annual cost burden:

$$23,615 \text{ hours} \times 52.62^7 \text{ per hour} = \$1,242,621$$

There are no out-of-pocket costs for covered financial institutions to submit the one time notice to correspondent account holders required by 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.

14. Estimated annualized cost to the Federal government:

There is no estimated annualized cost to the Federal Government.

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- 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].

<sup>6</sup> FinCEN recognizes that not all domestic financial institutions maintain foreign correspondent accounts. For that reason, before the next renewal of this OMB control number, FinCEN will consult the Federal regulatory agencies to attempt to identify the approximate number of domestic financial institutions that engage in foreign correspondent banking.

<sup>7</sup> The average hourly wage rate is calculated using the May 2019 Bureau of Labor Statistics average hourly wage for "13-1041 Compliance Officer" of \$35.03. See U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at <https://www.bls.gov/news.release/ecec.nr0.htm>. The ratio between benefits and wages for financial activities, credit intermediation and related activities is \$15.80 (hourly benefits)/\$31.45 (hourly wages) = 0.502. The benefit factor is 1 plus the benefit/wages ratio, or 1.502. Multiplying the hourly wage by the benefit factor produces the fully-loaded hourly wage. (\$35.03 multiplied by 1.502 equals \$52.62).

15. Change in burden:

When the final rule was issued in October 2019, FinCEN estimated burden at two hours per financial institution: one hour for a senior executive of the financial institution to review and approve the notice to be provided to correspondent account holders, and one hour for a compliance officer to provide notice to correspondent account holders. Since the information collection requirement in this rule is a one-time notification to correspondent account holders, FinCEN submits that a senior executive has already reviewed the one-time notice. For that reason, FinCEN reduced the burden to one hour per financial institution in this renewal, consistent with the burden estimate in the renewal of other 311 information collection requests.

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.