

SUPPORTING STATEMENT
1505-0198, Requirement to Report Information
Regarding the Shipment of Rough Diamonds

1. Circumstances Making the Collection Necessary.

This application is submitted for approval of a revision to the information collection authority pertaining to the Office of Foreign Assets Control's (OFAC) Rough Diamonds Control Regulations (31 CFR part 592) (the "Regulations").

The Regulations were originally promulgated on August 4, 2003 pursuant to the Clean Diamond Trade Act (Pub. L. 108-19) and Executive Order (E.O.) 13312. At the time of their promulgation, the information collections in the regulations were authorized under the Office of Management and Budget (OMB) control number 1505-0164, which pertains to OFAC's Reporting, Procedures and Penalties Regulations (31 CFR part 501) ("RPPR"), and control number 0607-0152, which pertains to the U.S. Department of Commerce, Bureau of the Census (Census Bureau) Foreign Trade Regulations (15 CFR part 30) (FTR).

OFAC collections of information (1505-0198)

Report to foreign exporting authority. The collection of information in § 592.301(a)(3) of the Regulations requires the person identified as the ultimate consignee on the Customs Form 7501 Entry Summary filed with U.S. Customs and Border Protection (CBP) in connection with an importation of rough diamonds to report to the relevant foreign exporting authority within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. This collection has been approved by OMB under control number 1505-0198.

This collection of information is needed to monitor the integrity of international rough diamond shipments, and the information collected will be used to further OFAC's compliance and enforcement programs. The information collected will also further the effective implementation by the United States of the multilateral Kimberley Process Certification Scheme (KPCS) for rough diamonds, as implemented through the Clean Diamond Trade Act and E.O. 13312. The KPCS is a control regime that seeks to prevent the illicit trade in rough diamonds that in the past has fueled bloodshed, instability, and human rights abuses.

Note that the collections of information in §§ 592.301(a)(1)(i)–(ii), 592.501, and 592.603 of the Regulations are made pursuant to OFAC's RPPR and have been approved by OMB under control number 1505-0164.

According to the Census Bureau, the collections of information in §§ 592.301(a)(1)(iii)–(v) and in 592.301(a)(5) related to exporter and importer reporting requirements and the Census Bureau's FTR were previously approved by OMB under control number 0607-0152. Accordingly, the remainder of this submission does not address these requirements.

2. Purpose and Use of the Information Collected.

Report to foreign exporting authority. Section 592.301(a)(3) of the Regulations requires the person identified as the ultimate consignee on the Customs Form 7501 Entry Summary filed with CBP in connection with an importation of rough diamonds to report that person's receipt of a shipment of rough diamonds to the relevant foreign exporting authority within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. The report must refer to the relevant Kimberley Process Certificate (KPC) by serial number; specify the number of parcels in the shipment; specify the total carat weight of the shipment; and identify the importer and exporter of the shipment.

The purpose of this information collection requirement is to facilitate the foreign exporting authority's prompt and efficient determination as to whether a parcel of rough diamonds arrived in the United States in the same condition as when exported. Such facilitation will strengthen the proper functioning of the KPCS and, thus, implementation of the Clean Diamond Trade Act.

The information collected by foreign exporting authorities will assist in monitoring the integrity of international shipments of rough diamonds and, therefore, can be used to further the compliance and enforcement programs of OFAC, CBP, and U.S. Immigration and Customs Enforcement (ICE), each of which has enforcement authority under the Clean Diamond Trade Act and various implementing regulations. See §§ 5(a) and 8 of the Clean Diamond Trade Act. OFAC does not receive the data submitted in response to the information collection requirement; CBP receives it and shares it with OFAC and ICE.

3. Consideration Given to Information Technology.

Section 592.301(a)(3) of the Regulations states that the report filed by the ultimate consignee need not be in any particular form and may be submitted electronically or by mail or courier. Generally, persons engaged in the rough diamond trade have indicated to the U.S. Government their intention to submit such reports usually by way of e-mail.

4. Duplication of Information.

The information that OFAC requires pertains to individual transactions, as well as the records of individual importers and exporters. It is not available other than through the copy of the KPC and a specific report. Each individual report of information provided is of a limited nature, separate, and unique. Thus, there is no duplication of records.

5. Reducing the Burden on Small Entities.

Previously revised information collection requirements in § 592.301(a)(3) of the Regulations are assessed to have affected a limited number of small businesses or other small entities that are engaged in the rough diamond trade. The reporting procedures are simple and straightforward, and the estimated time to prepare and submit an individual transaction report is expected to remain at ten minutes. Additionally, as noted above, reports need not be in any particular form and may be submitted electronically or by mail or courier.

6. Consequences of not Conducting Collection.

One of the principal objectives of the KPCS and the Clean Diamond Trade Act is to safeguard the integrity of rough diamond shipments while in transit. If the individual transaction information collection is not conducted, it will be more difficult for the United States and other countries participating in the KPCS to determine whether an international rough diamond shipment has been tampered with.

Conducting the information collection on a less frequent basis would also run counter to the aim of the KPCS and the Clean Diamond Trade Act to prevent conflict diamonds from entering the legitimate channels of trade. The prompt detection of tampering has a strong deterrent effect and also will assist in the interdiction and recovery of conflict diamonds.

7. Special Circumstances.

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

Prompt and complete reporting on a transaction-by-transaction basis is consistent with the objectives of the KPCS and the Clean Diamond Trade Act and is necessary for OFAC and other implementing agencies to maintain effective compliance and enforcement.

- *Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*

Section 592.301(a)(3) of the Regulations requires the ultimate consignee to report on its receipt of the rough diamond shipment within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. This 15-day period represents the maximum period of time for the filing of required entry documents under CBP regulations. A 30-day requirement would potentially frustrate the objectives of the KPCS and the Clean Diamond Trade Act. As explained above, a prompt determination that a shipment may have been tampered with is important to effective compliance and enforcement.

- *Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*

Pursuant to § 501.601 of OFAC's Reporting, Penalties and Procedures Regulations (31 CFR part 501), § 592.501 of the Regulations requires respondents to retain full and accurate records relating to rough diamond shipments for five years from the date of importation. The requirement for five years of record retention, which is covered by OMB control number 1505-0164, 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;*

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that

those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, and in conformity with the requirements of the Trade Secrets Act, 18 U.S.C. § 1905, but OFAC does not receive any information under this reporting requirement.

- *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.*

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act, and in conformity with the requirements of the Trade Secrets Act, but OFAC does not receive any information under this reporting requirement.

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR § 1320.5.

8. Consultation with Persons Outside the Agency.

Officials from CBP, the Census Bureau, and the Treasury Department who are directly responsible for the implementation of the KPCS and the Clean Diamond Trade Act have, in recent years, participated in a series of meetings and teleconferences with numerous individuals and firms engaged in the rough diamond trade in the United States. The effectiveness of the process for confirming receipt of rough diamonds shipments has been discussed and the industry's input is reflected in § 592.301(a)(3) of the Regulations.

On September 7, 2021, OFAC published a Notice relating to the collections covered by this authority in the *Federal Register* with a 60-day comment period for persons seeking to comment on OFAC's request for renewal of this information collection (*see* 86 FR 50208, September 7, 2021). OFAC did not receive any public comments in relation to the Notice.

9. Payment or Gift.

Respondents receive no payment or gifts for providing information to OFAC.

10. Confidentiality.

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act, and in conformity with the Trade Secrets Act, however, OFAC does not receive any information

under this reporting requirement. CBP and ICE also have policies that protect confidentiality of information in appropriate cases pursuant to statutory authorities listed above.

11. Questions of a Sensitive Nature.

OFAC does not collect any information, and it therefore does not collect any sensitive information. Any personally identifiable information that is collected is business contact information in furtherance of OFAC's compliance and enforcement programs and the effective implementation by the United States of the multilateral KPCS for rough diamonds.

12. Burden of Information Collection.

Report to foreign exporting authority. The anticipated number of respondents is approximately 66. It is expected that the majority of these respondents will report to foreign exporting authorities approximately 7 times per year. Based on information from rough diamond traders and CBP, roughly 467 individual transaction reports are expected annually. The total number of burden hours associated with the completion and submission of all individual transaction reports is anticipated to be 78. This is based on an estimated completion and submission time of ten minutes per report. This is a decrease from the prior report based on current estimates that indicate there are fewer respondents and fewer imports than previously assumed. Based on information provided from rough diamonds traders to CBP, OFAC does not expect the hour burden on respondents to vary widely. Additionally, OFAC understands that it is the customary and usual business practice for most traders to send a detailed acknowledgment of receipt of a shipment to their overseas counterparts to the transaction. OFAC does not anticipate any significant change to these figures over the next three years.

| REPORT OR INFORMATION COLLECTION | ASSOCIATED FORM NUMBER | ESTIMATED NUMBER OF ANNUAL RESPONSES | ESTIMATED TIME PER FORM (hours per form) | ESTIMATED TOTAL BURDEN (hours) |
|---------------------------------------|------------------------|--------------------------------------|--|--------------------------------|
| Report to foreign exporting authority | n/a | 467 | 0.1667 (10 minutes) | 78 |
| Total | | 467 | | 78 |

13. Annual Cost to Respondents.

Of the 467 estimated responses, a great majority are expected to be processed quickly by individuals acting on their own behalf or by clerk-level administrators. OFAC estimates the cost per burden hour of the anticipated 78 burden hours to be \$19.96¹ per hour, for a total cost of \$1,556.88.

14. Cost to the Federal Government.

¹ OFAC believes that most respondents to this information collection are in financial clerk roles in their respective industries. Per the latest U.S. Department of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, the average labor rate for financial clerks is \$19.96 per hour. See Bureau of Labor Statistics wage information at <https://www.bls.gov/ooh/office-and-administrative-support/financial-clerks.htm>.

The total estimated annual cost to the U.S. Government attributable to this information collection is \$10,369. This amount represents salary and benefit costs for one full time employee at General Schedule (GS)-13 with additional Washington, D.C. locality pay included, spending approximately 10 percent of their time per year reviewing the information collected (\$103,690 x 10% = \$10,369).

15. Reason for Change.

Periodic renewal of the information collection.

Report to foreign exporting authority. There is no change to the collection of information in § 592.301(a)(3) of the Regulations relating to reports to the relevant foreign exporting authority that was approved by OMB under control number 1505-0198.

Census Bureau collections of information (0607-0152). Pursuant to the Census Bureau, the collections of information in § 592.301(a)(1)(iii)–(v) of the Regulations related to exporter and importer reporting requirements and the FTR previously were approved by OMB under control number 0607-0152 and are unchanged.

There is no change to the collection of information in § 592.301(a)(5) of the Regulations (previously located in § 592.301(a)(4)) that relates to exporter reporting requirements and the FTR, and which remains approved by OMB under control number 0607-0152.

Annual State report. OFAC previously removed the annual State Department reporting requirement that all rough diamond importers and exporters file annual reports with the Department of State detailing their import, export, and stockpile information as previously set forth in § 592.502 of the Regulations. OFAC removed this requirement in 2018 in light of alternate sources from which to obtain relevant information. However, due to an administrative error in the prior submission, the burden totals from 2018, of 200 hours for the report to foreign exporting authority and 0 hours for the annual state report, were not conveyed in the Regulatory Information Service Center (ROCIS). Treasury is correcting this administrative error as part of this submission.

Additionally, for the report to foreign exporting authority, there is a decrease in the burden hours of 122 hours (from 200 hours to 78 hours) due to a decrease in the number of actual number of reports received.

| | PREVIOUSLY APPROVED | PROGRAM CHANGE DUE TO AGENCY DISCRETION | CHANGE DUE TO ADJUSTMENT IN AGENCY ESTIMATE | REQUESTED |
|----------------------------|---------------------|---|---|-----------|
| Annual Number of Responses | 1200 | 0 | -733 | 467 |
| Annual Time Burden (Hr) | 200 | 0 | -122 | 78 |

16. Tabulation of Results, Schedule, and Analysis Plans.

Results will not be published.

17. Display of OMB Approval Date.

The display of the OMB expiration date may cause confusion with respondents as to when this information is required. It is requested not to display this expiration date.

18. Exceptions to Certification For Paperwork Reduction Act Submission.

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.