

Supporting Statement
OMB Control Number 1506–0079

Imposition of Special Measure Regarding Al-Huda Bank as a Foreign Financial Institution of Primary Money Laundering Concern

1. Circumstances that make the collection necessary:

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (October 26, 2001), and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).¹ The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, including notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary), *inter alia*, to require financial institutions to keep records and file 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 AML programs and compliance procedures.² The authority of the Secretary to administer the BSA has been delegated to the Director of the Financial Crimes Enforcement Network (FinCEN).³

Section 311 of the USA PATRIOT Act, codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take one or more “special measures.”

Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to impose prohibitions or conditions on the opening or maintaining in the United States of certain correspondent accounts. Special measures are safeguards that protect the U.S. financial system from money laundering and terrorist financing.

On January 31, 2024, FinCEN issued a Notice of Proposed Rulemaking (NPRM) proposing special measure five to prohibit U.S. financial institutions from opening or

1 The AML Act was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).

2 Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism. Section 6101 of the AML Act added language further expanding the scope of the BSA but did not amend these longstanding purposes.

3 Treasury Order 180-01 (Jan. 14, 2020).

maintaining a correspondent account for, or on behalf of, Al-Huda Bank,⁴ and requiring that U.S. financial institutions apply due diligence to correspondent accounts they maintain on behalf of foreign financial institutions that is reasonably designed to guard against the indirect use of those accounts by Al-Huda Bank.

On July 3, 2024, FinCEN issued a final rule.⁵ As proposed in the NPRM, the final rule imposes special measure five, prohibiting U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, Al-Huda Bank. Further, the rule requires that U.S. financial institutions notify their foreign correspondent account holders that they may not provide Al-Huda Bank with access to correspondent accounts maintained at the U.S. financial institution. The requirement is intended to ensure cooperation from correspondent account holders in preventing Al-Huda Bank access to the U.S. financial system. U.S. financial institutions are required to document compliance with the notification requirement. The information is used by Federal agencies and certain self-regulatory organizations to verify compliance with the rule.

2. Use of the information:

The collection of information in the final rule relates to both disclosure and recordkeeping. The information required to be disclosed by U.S. 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 preventing Al-Huda Bank access to the U.S. financial system, as well as to increase awareness within the international financial community of the risks and deficiencies of Al-Huda Bank. The information required to be maintained by U.S. financial institutions will be used by Federal agencies and certain self-regulatory organizations to verify compliance with the requirement that a U.S. financial institution notify its correspondent account holders that they may not provide Al-Huda Bank with access to the correspondent account maintained at the institution.

3. Use of improved information technology to reduce burden:

Under the final rule, satisfactory notice is given by including a one-time notice by mail, fax, or e-mail, or by including the notice in the next regularly occurring transmittal from the U.S. financial institution to its correspondent account holders. U.S. financial institutions may use any method of information technology to document their compliance with the notice requirement in the final rule, including keeping an electronic copy of the actual notice that is sent to financial institutions.

4. Efforts to identify duplication:

⁴ FinCEN, *Proposal of Special Measure regarding Al-Huda Bank, as a Foreign Financial Institution of Primary Money Laundering Concern*, [89 FR 6074](#) (Jan. 31, 2024), proposed to be codified at 31 C.F.R. § 1010.663. The NPRM defines Al-Huda Bank to mean “all subsidiaries, branches, and offices of Al-Huda Bank operating as a bank in any jurisdiction.” 31 C.F.R. § 1010.663(a)(1).

⁵ FinCEN, *Imposition of Special Measure regarding Al-Huda Bank as a Financial Institution of Primary Money Laundering Concern*, [89 FR 55051](#) (July 3, 2024), to be codified at 31 C.F.R. § 1010.663.

This final rule is unique in that it is the only federal rule identifying Al-Huda Bank as a “primary money laundering concern” and prohibits U.S. financial institutions from opening or maintaining a correspondent account for or on behalf of Al-Huda Bank.

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

Typically, U.S. 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 U.S. financial institutions. For these reasons, FinCEN does not anticipate that the final rulemaking will have a significant impact on a substantial number of small financial institutions or other potentially affected businesses. Accordingly, FinCEN certifies that this rule will not have a significant economic 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 final rule, a U.S. financial institution is required to notify its correspondent account holders that they may not provide Al-Huda Bank with access to a correspondent account maintained at the U.S. financial institution. The failure to transmit such notice will make it more difficult for the special measure to achieve its goal of preventing Al-Huda Bank’s access to the U.S. financial system. Further, a U.S. financial institution is required to document its compliance with the requirement. The failure to maintain such documentation will make it impossible to verify compliance with the notice requirement, and by extension, to guard against the use of the U.S. financial system 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):

Under 31 CFR 1010.430(d), all records that are required to be retained by 31 CFR Chapter X must be retained for a period of five years. The requirement that financial institutions maintain records of notification to their foreign correspondent account holders must be kept for five years to verify compliance with the requirement as such records may relate to civil penalty actions that are subject to statutes of limitation longer than three years.

8. Efforts to consult with persons outside the agency.

On January 31, 2024, FinCEN published in the Federal Register a notice and request for comments of its intention to impose information collection requirements in connection with the imposition of a special measure concerning Al-Huda Bank as a financial institution of primary money laundering concern.⁶

⁶ FinCEN, *Proposal of Special Measure regarding Al-Huda Bank, as a Foreign Financial Institution of Primary Money Laundering Concern*, [89 FR 6074](#) (Jan. 31, 2024). The public comment period closed on March 1, 2024, and seven comments were received and considered.

Concurrent with the issuance of the NPRM on January 31, 2024, FinCEN opened a comment period that closed on March 1, 2024. FinCEN received seven comments. Neither Al-Huda Bank nor its owner submitted comments.

9. Payment or gift to respondents.

No payments or gifts 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 will be available to Treasury or its designee to verify compliance with the notice requirement; all such information collections under the BSA must be used consistent with a purpose set forth in 31 U.S.C. 5311, including furthering a criminal, tax, or regulatory investigation, risk assessment, or proceeding, or use in intelligence or counterintelligence activities, including analysis, to protect against terrorism.

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 System of Records Notice.⁷

12. Estimated burden:

Frequency: The final rule requires U.S. financial institutions to provide one-time notice to its correspondent account holders and to document its compliance with that notice requirement.

Estimated Number of Respondents: Approximately 15,180.⁸

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Respondent Financial Institutions by Category

| Financial Institution Type | Number of Entities |
|-----------------------------------|---------------------------|
| Banks | 9,209 ⁹ |

⁷ FinCEN, *Privacy Act of 1974, as Amended; System of Records Notice*, [79 FR 20969](#) (Apr. 14, 2014).

⁸ FinCEN's estimate accounts for all domestic financial institutions that could potentially maintain correspondent accounts for foreign banks. There are approximately 15,180 such financial institutions doing business in the United States.

⁹ Bank data is as of December 14, 2023, from Federal Deposit Insurance Corporation BankFind

| | |
|------------------------------------|---------------------|
| Broker-Dealers in securities | 3,477 ¹⁰ |
| Mutual Funds | 1,495 ¹¹ |
| Futures Commission Merchants | 62 ¹² |
| Introducing Brokers in Commodities | 937 ¹³ |
| Total | 15,180 |

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 15,180 hours.

13. Estimated total annual cost burden:

$$15,180 \text{ hours} \times \$52.39^{14} \text{ per hour} = \$795,280.20$$

14. Estimated annual cost to the Federal government:

There is no estimated annualized cost to the Federal government.

15. Change in burden:

None. This is a new collection; however, financial institutions are accustomed to documenting their compliance with federal requirements.

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:

(<https://banks.data.fdic.gov/bankfind-suite/bankfind>). Credit union data is as of December 31, 2023, from the National Credit Union Administration Quarterly Data Summary Reports.

(<https://ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-data-summary-reports>).

10 According to the Securities and Exchange Commission (SEC), there are 3,477 broker-dealers in securities as of December 2023 from website “Company Information About Active Broker-Dealers” (<https://www.sec.gov/help/foiadocsbdfoia>).

11 According to the SEC, as of the third quarter of 2023, there are 1,495 open-end registered investment companies that report on Form N-CEN. (<https://www.sec.gov/dera/data/form-ncen-data-sets>).

12 According to the Commodity Futures Trading Commission (CFTC), there are 62 futures commission merchants as of October 31, 2023. See *Financial Data for FCMs*, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>.

13 According to National Futures Association, there are 937 introducing brokers in commodities as of November 30, 2023.

14 The Average Hourly Wage Rate is calculated from the May 2022 U.S. Bureau of Labor Statistics average hourly wage for “13-1041 Compliance Officer” of \$37.01, plus an additional 41.5% for benefits to produce a fully-loaded rate of \$52.39. The ratio between benefits and wages for private industry workers is \$12.19 (hourly benefits)/\$29.34 (hourly wages) = 0.415, as of September 2023. The benefit factor is 1 plus the benefit/wages ratio, or 1.415. See U.S. Bureau of Labor Statistics, *Occupational Employment and Wages: 13-1041 Compliance Officer* (May 2022), available at [Compliance Officers \(bls.gov\)](https://www.bls.gov/oes/13-1041-compliance-officer). See also U.S. Bureau of Labor Statistics, *Employer Costs for Employee Compensation: Private industry dataset* (September 2023), available at <https://www.bls.gov/news.release/ecec.t04.htm>.

FinCEN requests that it not be required to display the expiration date so that the regulations will not have to be amended for the new expiration date every three years.

18. Exception to the certification statement in OMB Form 83-I:

There are no exceptions to the certification statement.