

credit card transaction) for the transmittal of funds. If the transmitter's financial institution has knowledge that the person placing the transmittal order is not the transmitter, the transmitter's financial institution shall obtain and retain a record of the transmitter's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record the lack thereof.

(3) *Recipients other than established customers.* For each transmittal order that it accepts as a recipient's financial institution for a recipient that is not an established customer, in addition to obtaining and retaining the information required in paragraph (f)(1)(iii) of this section:

(i) If the proceeds are delivered in person to the recipient or its representative or agent, the recipient's financial institution shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the recipient's financial institution has knowledge that the person receiving the proceeds is not the recipient, the recipient's financial institution shall obtain and retain a record of the recipient's name and address, as well as the recipient's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person receiving the proceeds, or a notation in the record of the lack thereof.

(ii) If the proceeds are delivered other than in person, the recipient's financial institution shall retain a copy of the check or other instrument used to effect payment, or the information contained thereon, as well as the name and address of the person to which it was sent.

(4) *Retrievability.* The information that a transmitter's financial institution must retain under paragraphs (f)(1)(i) and (f)(2) of this section shall be retrievable by the transmitter's financial institution by reference to the name of the transmitter. If the transmitter is an

established customer of the transmitter's financial institution and has an account used for transmittals of funds, then the information also shall be retrievable by account number. The information that a recipient's financial institution must retain under paragraphs (f)(1)(iii) and (f)(3) of this section shall be retrievable by the recipient's financial institution by reference to the name of the recipient. If the recipient is an established customer of the recipient's financial institution and has an account used for transmittals of funds, then the information also shall be retrievable by account number. This information need not be retained in any particular manner, so long as the financial institution is able to retrieve the information required by this paragraph, either by accessing transmittal of funds records directly or through reference to some other record maintained by the financial institution.

(5) *Verification.* Where verification is required under paragraphs (f)(2) and (f)(3) of this section, a financial institution shall verify a person's identity by examination of a document (other than a customer signature card), preferably one that contains the person's name, address, and photograph, that is normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with indication of home address).

(6) *Exceptions.* The following transmittals of funds are not subject to the requirements of this section:

(i) Transmittals of funds where the transmitter and the recipient are any of the following:

- (A) A domestic bank;
- (B) A wholly-owned domestic subsidiary of a domestic bank;
- (C) A domestic broker or dealer in securities;
- (D) A wholly-owned domestic subsidiary of a domestic broker or dealer in securities;
- (E) The United States;
- (F) A state or local government; or
- (G) A federal, state or local government agency or instrumentality; and

(ii) Transmittals of funds where both the transmitter and recipient are the same person and the transmitter's financial institution and the recipient's financial institution are the same domestic broker or dealer in securities.

In concurrence:

By the Board of Governors of the Federal Reserve System, December 21, 1994.

William W. Wiles,
Secretary of the Board.

By the Department of the Treasury,
December 19, 1994.

Stanley E. Morris,
Director, Financial Crimes Enforcement Network.

[FR Doc. 94-31977 Filed 12-30-94; 8:45 am]

BILLING CODE 6210-01-P; 4810-25-P

FEDERAL RESERVE SYSTEM

12 CFR Part 219

[Regulation S; Docket No. R-0807]

Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has finalized the enhanced recordkeeping requirements relating to certain wire transfers (which include funds transfers and transmittals of funds) by financial institutions. The final rule takes into consideration the public comments received on the initial notice of proposed rulemaking. These recordkeeping requirements are being promulgated jointly by the Board and the Department of Treasury (Treasury). A companion notice published elsewhere in today's **Federal Register** by the Treasury and the Board (Joint Notice) sets forth the substantive provisions of the recordkeeping requirements and provides an analysis of comments received on the proposal. This notice sets forth the regulation for codification at 12 CFR Part 219, subpart B, which cross-references the substantive provisions set forth in the Joint Notice. Under the Joint Notice, each domestic financial institution involved in either a domestic or international wire transfer must collect and retain certain information. The amount and type of information collected and retained will depend upon the nature of the financial institution, its role in the particular wire transfer, and the relationship of the parties to the transaction with the financial institution.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Louise L. Roseman, Associate Director, (202) 452-2789; Gayle Brett, Manager,

Fedwire, (202) 452-2934, Division of Reserve Bank Operations and Payment Systems; Oliver Ireland, Associate General Counsel, (202) 452-3625, or Elaine M. Boutilier, Senior Counsel, (202) 452-2418, Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202) 452-3544.

SUPPLEMENTARY INFORMATION: The statute generally referred to as the Bank Secrecy Act (Pub. L. 91-508, codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5329) authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The primary purpose of the Bank Secrecy Act is to identify the source, volume, and movement of funds into and out of the country and through domestic financial institutions. The Bank Secrecy Act was amended by the Annunzio-Wylie Anti-Money Laundering Act of 1992, Title XV of the Housing and Community Development Act of 1992, Pub. L. 102-550 (referred to hereafter as the 1992 Amendment) to specifically authorize the Treasury and the Board jointly to prescribe regulations to require maintenance of records regarding domestic and international funds transfers.

The 1992 Amendment authorizes the Board and the Treasury to promulgate recordkeeping requirements for domestic wire transfers by insured depository institutions whenever the agencies determine that such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. In addition, the 1992 Amendment requires the Treasury and the Board to issue final regulations with regard to international transactions. The recordkeeping requirements for international transactions will apply to financial institutions as defined in 31 CFR 103.11(i),¹ which include insured depository institutions, brokers and dealers in securities, as well as other businesses that provide money transmitting services. In prescribing these required regulations, the Board and the Treasury considered the usefulness of these records in criminal, tax, or regulatory investigations or proceedings and the effect on the cost and efficiency of the payment system.

The Board and the Treasury decided that it would be simpler to issue regulations for both domestic and international funds transfers simultaneously, because the recordkeeping requirements will be substantially the same.

The number of wire transfers completed is substantial. For example, more than 71 million funds transfers with an aggregate dollar value of approximately \$208 trillion were made over Fedwire in 1993. More than 42 million funds transfers with a value of approximately \$266 trillion were made over the Clearing House Interbank Payments System (CHIPS). Nonbank providers of money transmitting services make an estimated 12.7 million transmittals annually.

Money laundering is a vital component of drug trafficking and other criminal activity throughout the world, and Federal law enforcement agencies believe that a significant amount of the money laundered involves wire transfers. Proceeds from illegal activities may be processed through money laundering schemes involving domestic and/or international payments by wire transfers. Such activity has been documented in several recent investigations conducted by the Treasury and other Federal law enforcement agencies.

In August 1993, the Treasury and the Board jointly issued for public comment a proposal to enhance the recordkeeping requirements relating to certain wire transfers by financial institutions (58 FR 46014, August 31, 1993). Based on the comments received, the Treasury and the Board have modified the proposed rule to reduce the burden associated with the rule, while maintaining the usefulness of the rule to law enforcement agencies. The Board and the Treasury believe that maintenance of these records will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. Further, the Board and the Treasury believe that these recordkeeping requirements will not have a significant adverse effect on the cost or the efficiency of the payments system.

Codification of the Rule

To minimize potential confusion by affected entities regarding the scope of this joint rule and its interaction with other anti-money laundering regulations, the substantive requirements of the rule will be codified with other Bank Secrecy Act regulations, as part of the Treasury's regulations in 31 CFR Part 103. Because the Board is required to prescribe these regulations jointly with the Treasury,

the Board is adding a new subpart B to 12 CFR Part 219, which will cross-reference the jointly prescribed requirements in 31 CFR Part 103. The current text of 12 CFR Part 219, concerning reimbursement to financial institutions for assembling and providing financial records pursuant to the Right to Financial Privacy Act, will become subpart A of 12 CFR Part 219.

Summary Description of the Rule

The Joint Notice, published elsewhere in today's **Federal Register**, provides an extensive description of the substantive requirements of the rule. While the Board is authorized to promulgate jointly with the Treasury recordkeeping and reporting requirements with regard to domestic wire transfers by insured depository institutions, the Board specifically is required to promulgate jointly with the Treasury recordkeeping and reporting requirements for international wire transfers by both insured depository institutions and nonbank financial institutions. The Board is not authorized to promulgate recordkeeping and reporting requirements for domestic wire transfers by nonbank financial institutions. (The Treasury has this authority under other statutory provisions.) This limitation is reflected in the Board's subpart B of 12 CFR Part 219. The Board's recordkeeping and reporting requirements for international wire transfers by nonbank financial institutions, however, are identical to those adopted by the Treasury for domestic and international wire transfers by nonbank financial institutions. Therefore, compliance by nonbank financial institutions with the requirements will not be affected by this limitation in the Board's regulatory authority.

Regulatory Flexibility Analysis

Three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule, (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, and (3) a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected, are discussed in the Joint Notice.

Competitive Impact Analysis

In considering an operational or legal change that would affect a Federal Reserve Bank priced service, the Board

¹ When this rule becomes effective, the citation for the definition of financial institution will be 31 CFR 103.11(n).

determines whether the change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services, due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences.

Unlike other providers of wire transfer services, the Federal Reserve Banks are not subject to the wire transfer recordkeeping rules, because they are not considered by the Treasury to be financial institutions, as defined in 31 CFR 103.11(i).² The Board believes, however, that the exclusion of the Federal Reserve Banks from the scope of this rule will not adversely affect the ability of other service providers to compete effectively with the Federal Reserve in providing similar services. The Federal Reserve Banks will continue to maintain records of the payment orders that they accept, similar to the records required by the rule to be kept by intermediary banks.

For funds transfers effected over the Federal Reserve's Fedwire funds transfer system, banks and domestic brokers or dealers in securities would not have to retain as many of the elements of beneficiary identification as provided by the originator, because the current Fedwire format may not have sufficient space to include such information. The Board, however, does not believe that this temporary exception would make use of the Fedwire system more desirable than other funds transfer systems. A financial institution will be required to comply fully with the requirement to retain full beneficiary information at such time that it completes its conversion to the expanded Fedwire message format.

Paperwork Reduction Act

The collection of information required by the final rule has been submitted by the Treasury to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1505-0063.

The collection of information in this regulation is authorized by 12 U.S.C. 1829b and 1951-1959 and 31 U.S.C. 5311-5328. The likely recordkeepers are financial institutions that perform transmittals of funds.

Estimated number of respondents and/or recordkeepers: 60,000.

Estimated total annual recordkeeping burden: 1 million hours.

Estimated average annual burden per respondent and/or recordkeeper: 16.3 hours.

Estimated annual frequency of responses: Upon request.

The estimated average annual burden hours have decreased significantly from those included in the August 1993 proposal. The decrease is due to the significant reduction in the number of transmittals of funds subject to the recordkeeping requirements as a result of the establishment of the \$3,000 threshold, and due to the reduction of circumstances in which additional recordkeeping and verification requirements for noncustomers would apply.

List of Subjects in 12 CFR Part 219

Banks, Banking, Currency, Reporting and recordkeeping requirements, Foreign banking.

For the reasons set out in the preamble, 12 CFR Part 219 is amended as set forth below.

PART 219—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS (REGULATION S)

1. The title of part 219 is revised to read as set forth above.

Subpart A—Reimbursement to Financial Institutions for Providing Financial Records

§§ 219.1 through 219.7 [Designated as Subpart A]

2. Sections 219.1 through 219.7 are designated as Subpart A, and a new Subpart A heading is added to read as set forth above.

3. The authority citation for Part 219 is designated as the authority for Subpart A and continues to read as follows:

Authority: 12 U.S.C. 3415.

4. Subpart A is amended by revising § 219.1 to read as follows:

§ 219.1 Authority, purpose and scope.

This subpart of Regulation S (12 CFR part 219, subpart A) is issued by the Board of Governors of the Federal Reserve System (the Board) under section 1115 of the Right to Financial Privacy Act (the Act) (12 U.S.C. 3415). It establishes the rates and conditions for reimbursement of reasonably necessary costs directly incurred by financial institutions in assembling or providing customer financial records to a government authority pursuant to the Act.

5. Section 219.2 is amended by revising the introductory text to read as follows:

§ 219.2 Definitions.

For the purposes of this subpart, the following definitions shall apply:

* * * * *

6. Subpart B is added to Part 219 to read as follows:

Subpart B—Recordkeeping and Reporting Requirements for Funds Transfers and Transmittals of Funds

Sec.

219.21 Authority, purpose and scope.

219.22 Definitions.

219.23 Recordkeeping and reporting requirements.

219.24 Retention period.

Subpart B—Recordkeeping and Reporting Requirements for Funds Transfers and Transmittals of Funds

Authority: 12 U.S.C. 1829b(2) and (3).

§ 219.21 Authority, purpose and scope.

This subpart of Regulation S (12 CFR part 219, subpart B) is issued by the Board under the authority of section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b), as amended by the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Pub. L. 102-550, Title XV; 106 Stat. 3672, 4044), which authorizes the Board and the Secretary of the Treasury jointly to prescribe recordkeeping and reporting requirements for domestic wire transfers by insured depository institutions; and which also requires the Board and the Treasury jointly to prescribe recordkeeping and reporting requirements for international wire transfers by insured depository institutions and by nonbank financial institutions. The definitions and recordkeeping and reporting requirements referenced in this subpart are promulgated and administered jointly by the Board and the Treasury and are codified in 31 CFR 103.11 and 103.33(e) and (f). Such recordkeeping and reporting requirements will assist in the prosecution of money laundering activities and are determined to have a high degree of usefulness in criminal, tax or regulatory investigations or proceedings.

§ 219.22 Definitions.

The following terms are defined in 31 CFR 103.11 under the joint authority of the Board and the Treasury:

Accept.

Beneficiary.

Beneficiary's bank.

Established customer.

Execution date.

Funds transfer.

²Ibid.

Intermediary bank.
 Intermediary financial institution.
 Originator.
 Originator's bank.
 Payment date.
 Payment order.
 Receiving bank.
 Receiving financial institution.
 Recipient.
 Recipient's financial institution.
 Sender.
 Transmittal of funds.
 Transmittal order.
 Transmittor.
 Transmittor's financial institution.

§ 219.23 Recordkeeping and reporting requirements.

(a) *Domestic and international funds transfers by insured depository institutions.* The Board and the Treasury are authorized to promulgate jointly recordkeeping and reporting requirements for domestic and international funds transfers by insured depository institutions whenever the agencies determine that the maintenance of such records has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. These regulations are codified at 31 CFR 103.33(e). For the purposes of this subpart, the provisions of 31 CFR 103.33(e) apply only to funds transfers by insured depository institutions.

(b) *International transmittals of funds by financial institutions other than insured depository institutions.* The Board and the Treasury are required to promulgate jointly reporting and recordkeeping requirements for international transmittals of funds by financial institutions, including brokers and dealers in securities and businesses that provide money transmitting services. In prescribing these requirements, the Board and the Treasury take into account the usefulness of these records in criminal, tax, or regulatory investigations or proceedings and the effect the recordkeeping will have on the cost and efficiency of the payment system. These regulations are codified at 31 CFR 103.33(f). For the purposes of this subpart, the provisions of 31 CFR 103.33(f) apply only to international transmittals of funds.

§ 219.24 Retention period.

All records that are required to be retained by this subpart shall be retained for a period of five years. All these records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record and the amount of time that has expired since the record was made. Any records required to be retained by this subpart

shall be made available to the Board upon request.

By order of the Board of Governors of the Federal Reserve System, December 21, 1994.
William W. Wiles,
Secretary of the Board.

[FR Doc. 94-31978 Filed 12-30-94; 8:45 am]
 BILLING CODE 6210-01-P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1505-AA46

Amendment to the Bank Secrecy Act Regulations Relating to Orders for Transmittals of Funds by Financial Institutions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: This final rule requires banks and nonbank financial institutions that act as transmitters' financial institutions and intermediary financial institutions in transmittals of funds to include certain information in transmittal orders sent to receiving financial institutions. A companion final rule (the final recordkeeping rule), published elsewhere in today's **Federal Register**, requires financial institutions to collect and retain the information that, under this final rule, must be included with transmittal orders.

The final recordkeeping rule sets forth collection of information and recordkeeping requirements with respect to certain transmittals of funds by financial institutions. The amount and type of information required to be collected and retained depends upon the type of financial institution, its role in a particular transaction, the amount of the transaction and whether the parties to the transaction are established customers of the financial institution. To ensure a full understanding of this final rule, the reader is encouraged to review its provisions together with those of the final recordkeeping rule.

This final rule is promulgated by Treasury under the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Annunzio-Wylie), which is part of the statute generally referred to as the Bank Secrecy Act. Annunzio-Wylie authorizes the Secretary of the Treasury to require financial institutions to maintain appropriate procedures to comply with the Bank Secrecy Act and guard against money laundering, and to carry out anti-money laundering programs. The final recordkeeping rule is promulgated jointly by the Board of

Governors of the Federal Reserve System (Federal Reserve Board) and by Treasury pursuant to a special statutory requirement under Annunzio-Wylie. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network (FinCEN).

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: FinCEN, Office of Financial Enforcement ((202) 622-0400); A. Carlos Correa, Assistant Director for Rules and Regulations; Roger Weiner, Deputy Director; Peter Djinis, Director; FinCEN, Office of Legal Counsel; Stephen R. Kroll, Legal Counsel (703) 905-3534; Nina A. Nichols, Attorney-Advisor, (703) 905-3598.

SUPPLEMENTARY INFORMATION:

Background

This final rule is promulgated by Treasury under 31 U.S.C. 5318 (a)(2) and (h), which are part of the statute generally referred to as the Bank Secrecy Act (Pub. L. 91-508, codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5329), and which were added to the Bank Secrecy Act by Annunzio-Wylie. 31 U.S.C. 5318 (a)(2) and (h) authorize the Secretary of the Treasury to require financial institutions to maintain appropriate procedures to comply with the Bank Secrecy Act and guard against money laundering, and to carry out anti-money laundering programs. The final recordkeeping rule is promulgated jointly by the Federal Reserve Board and by Treasury pursuant to a special statutory requirement for such joint issuance contained in 12 U.S.C. 1829b(b), added to the Bank Secrecy Act by section 1515 of Annunzio-Wylie. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

On August 31, 1993, Treasury and the Federal Reserve Board jointly issued a proposed recordkeeping rule (58 FR 46014) requiring financial institutions to obtain and retain information relating to certain transmittals of funds. Treasury also issued a companion proposed travel rule (58 FR 46021, August 31, 1993), which was subsequently modified (58 FR 51269, October 1, 1993), proposing to require any transmittor's financial institution involved in a transmittal of funds to include in its corresponding transmittal order:

(1) The name and address of the transmittor and the transmittor's deposit account number, if the payment were ordered from a deposit account;