



(BILLING CODE 4810-02)

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Information Collection Requirements in Connection with the Imposition of a Special Measure Concerning Bank of Dandong as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a renewal, without change, to information collection requirements finalized on November 8, 2017, imposing a special measure with respect to Bank of Dandong as a financial institution of primary money laundering concern. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER.]

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2020-0008 and the specific Office of Management and Budget (OMB) control number 1506-0072.

- Mail: Global Investigations Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2020-0008 and OMB control number 1506-0072.

Please submit comments by one method only. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at FRC@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of 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 of 2001 (USA PATRIOT Act) (Public Law 107–56) and other legislation. 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.

The BSA authorizes the Secretary of the Treasury, *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 counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.²

¹ 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.

² Treasury Order 180-01 (January 14, 2020).

Section 311 of the USA PATRIOT Act (Section 311), 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 certain special measures to address the primary money laundering concern.

FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. 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 maintenance of certain correspondent accounts.

FinCEN issued a final rule on November 8, 2017, imposing the fifth special measure to prohibit covered U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, Bank of Dandong.³ The rule further requires covered U.S. financial institutions to apply due diligence to their correspondent accounts that is reasonably designed to guard against their use by Bank of Dandong.⁴ It also requires covered institutions to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving Bank of Dandong.

³ 82 FR 51765

⁴ See 31 CFR 1010.660.

The notification requirement in 31 CFR 1010.660(b)(3)(i)(A) is intended to enhance cooperation from correspondent account holders in preventing Bank of Dandong from accessing to the U.S. financial system. The information financial institutions are required to maintain pursuant to section 1010.660(b)(4)(i) will be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.660.

II. Paperwork Reduction Act of 1995 (PRA)⁵

Title: Information Collection Requirements in Connection with the Imposition of a Special Measure Against Bank of Dandong, a Financial Institution of Primary Money Laundering Concern.

OMB Control Number: 1506-0072.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the imposition of a special measure against Bank of Dandong as a financial institution of primary money laundering concern pursuant to the authority contained in 31 U.S.C. § 5318A. See 31 CFR 1010.660.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Businesses or other for-profit institutions, and not-for-profit institutions.

Frequency: One time notification. See 31 CFR 1010.660(b)(3)(i)(A) and 1010.660(b)(4)(i).

Estimated Number of Respondents: 17,063.⁶

⁵ Pub. L. 104-13, 44 U.S.C. § 3506(c)(2)(A).

⁶ The Estimated Number of Respondents is based on the sum of the following numbers:

- 5,306 banks--according to the Federal Deposit Insurance Corporation (FDIC) there were 5,103 FDIC-insured banks as of March 31, 2020. According to the Federal Reserve Board (FRB), there were 203 other entities supervised by the FRB, as of June 16, 2020, that fall within the definition of bank. (20 Edge Act institutions, 15 agreement corporations, and 168 foreign banking organizations).

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 17,063 hours.

When the final rule was published on November 8, 2017, 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, covered financial institutions are required to apply due diligence to their correspondent accounts that is reasonably designed to guard against their indirect use by Bank of Dandong. There are approximately 17,063 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Records required to be retained under the BSA must be retained for five years.

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- 5,236 federally-insured credit unions--according to the National Credit Union Administration there were 5,236 federally regulated credit unions as of December 31, 2019.
 - 125 privately-insured credit unions--according to the General Accountability Office, *PRIVATE DEPOSIT INSURANCE: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, March 2017.
 - 1,104 introducing brokers--according to the Commodities and Futures Trading Commission (CFTC), there were 1,104 introducing brokers in commodities registered with the CFTC as of March 31, 2020.
 - 61 futures commission merchants--according to the CFTC, there were 61 futures commission merchants registered with the CFTC, as of March 31, 2020.
 - 3,640 broker/dealers--according to the Securities and Exchange Commission (SEC), there were 3,640 brokers or dealers in securities registered with the SEC, as of March 31, 2020.
 - 1,591 mutual funds--according to the SEC, there were approximately 1,591 mutual funds in 2017, based on forms filed with the SEC. The SEC provided the estimate to FinCEN for the last renewal of OMB control number 1506-0033 (83 FR 46012, Sept. 11, 2018). FinCEN was unable to obtain a more recent estimate.

Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Michael Mosier,

Deputy Director,

Financial Crimes Enforcement Network.