



## 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 Against 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 an information collection requirement finalized on November 8, 2017, imposing a special measure against 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 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-2023-0007 and the Office of Management and Budget (OMB) control number 1506-0072.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2023-0007 and OMB control number 1506-0072.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA and applicable OMB regulations and guidance. 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 Resource Center at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto: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 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).<sup>1</sup> 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, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury (the “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, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures.<sup>2</sup> Regulations implementing the BSA appear at 31 CFR chapter X. The

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

<sup>2</sup> Section 358 of the USA PATRIOT Act expanded the scope of the BSA by including a reference to reports and records “that have a high degree of usefulness in intelligence or counterintelligence activities to protect against international terrorism.” Section 6101 of the AML Act further expanded the purpose of the BSA to cover such matters as preventing money laundering, tracking illicit funds, assessing risk, and establishing appropriate frameworks for information sharing.

authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.<sup>3</sup>

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 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 maintenance of certain correspondent accounts. Special measures are safeguards that protect the U.S. financial system from money laundering and terrorist financing.

FinCEN issued a final rule on November 8, 2017, imposing the fifth special measure to prohibit U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, Bank of Dandong.<sup>4</sup> The rule requires that covered 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 Bank of Dandong. See 31 CFR 1010.660. Covered U.S. financial institutions are required under 31 CFR 1010.660(b)(3)(i)(A) to notify holders of foreign correspondent accounts that they may not provide Bank of Dandong with access to such accounts. The requirement is intended to ensure cooperation from correspondent account holders in denying Bank of Dandong access to

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<sup>3</sup> Treasury Order 180-01 (Jan. 14, 2020). Therefore, references to the authority of the Secretary under Section 311 of the USA PATRIOT Act apply equally to the Director of FinCEN.

<sup>4</sup> FinCEN, *Final Rule – Imposition of Special Measure Against Bank of Dandong as a Financial Institution of Primary Money Laundering Concern*, 82 FR 51758 (Nov. 8, 2017).

the U.S. financial system. Covered U.S. financial institutions are required under 31 CFR 1010.660(b)(4)(i) to document compliance with the notification requirement. The information is used by federal agencies and certain self-regulatory organizations to verify compliance with 31 CFR 1010.660.

## II. Paperwork Reduction Act of 1995 (PRA)<sup>5</sup>

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

OMB Control Number: 1506-0072.

Report Number: Not applicable.

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 and other for-profit institutions, and not-for-profit institutions.

Frequency: One time notification and recordkeeping associated with the notification.

*See* 31 CFR 1010.660(b)(3)(i)(A) and 1010.660(b)(4)(i).

Estimated Number of Respondents: 15,876

### Respondent Financial Institutions by Category

Type of Institution	Count
Banks, savings associations, thrifts, trust companies <sup>6</sup>	5,068

<sup>5</sup> Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

<sup>6</sup> All counts are from the Q4 2022 Federal Financial Institutions Examination Council (FFIEC) Call Report data, available at <https://cdr.ffiec.gov/public/pws/downloadbulkdata.aspx>. Data for institutions that are not insured, are insured under non-FDIC deposit insurance regimes, or do not have a Federal functional regulator are from the Federal Deposit Insurance Corporation's Research Information System, available at <https://www.fdic.gov/foia/ris/index.html>.

Type of Institution	Count
Credit unions <sup>7</sup>	4,863
Brokers or dealers in securities <sup>8</sup>	3,538
Mutual funds <sup>9</sup>	1,378
Futures commission merchants and introducing brokers in commodities <sup>10</sup>	1,029
<b>Total</b>	<b>15,876</b>

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 15,876 hours (15,876 respondents x 1 hour).

When the final rule was published on November 8, 2017, FinCEN estimated that 5,787 U.S. financial institutions were affected by the rule. FinCEN has since revised its estimate upward to account for all domestic financial institutions that could potentially maintain correspondent accounts for foreign banks. There are approximately 15,876 such financial institutions doing business in the United States.

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

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 OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for

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<sup>7</sup> Credit union data are from the National Credit Union Administration for Q4 2022, available at <https://ncua.gov/analysis/credit-union-corporate-call-report-data>.

<sup>8</sup> According to the Securities and Exchange Commission (SEC), there are 3,538 brokers or dealers in securities as of the end of fiscal year 2022. See SEC, *Fiscal Year 2024 Congressional Budget Justification*, p. 32, [https://www.sec.gov/files/fy-2024-congressional-budget-justification\\_final-3-10.pdf](https://www.sec.gov/files/fy-2024-congressional-budget-justification_final-3-10.pdf).

<sup>9</sup> According to information provided by the SEC as of December 2022 (including filings made through January 20, 2023), there are 1,378 open-end registered investment companies that report on Form N-CEN. FinCEN assesses that these companies are required to comply with 31 CFR 1010.660.

<sup>10</sup> As of March 31, 2023, there are 60 futures commission merchants. See Commodity Futures Trading Commission (CFTC), “Financial Data for FCMs”, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>. Additionally, as of April 30, 2023, there are 969 introducing brokers in commodities according to the CFTC. These two counts total 1,029.

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, cost of operation and maintenance, and cost involved in purchasing services.

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