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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process

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 comments on the proposed renewal, without change, of certain existing information collection requirements found in Bank Secrecy Act (BSA) regulations applicable to certain covered financial institutions. Under these regulations, among other requirements, a covered financial institution is prohibited from establishing, maintaining, administering, or managing correspondent accounts in the United States for or on behalf of a foreign shell bank. The regulations require that a covered financial institution take reasonable steps to ensure that any correspondent account that it establishes, maintains, administers, or manages in the United States for a foreign bank is not used by the foreign bank to indirectly provide banking services to a foreign shell bank. The regulations also mandate that a covered financial institution that maintains a correspondent account in the United States for a foreign bank retain records in the United States identifying the owners of each such foreign bank whose shares are not publicly traded, unless the foreign bank files a Form FR-Y with the Federal Reserve Board identifying the current owners of the foreign bank, and the name and street address of a person who resides in the United States and is authorized, and has agreed to be an agent to accept service of legal process for records regarding each such correspondent account. This request for comments is 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-2025-0005 and the Office of Management and Budget (OMB) control number 1506-0043.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2025-0005 and OMB control number 1506-0043.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 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: FinCEN's Regulatory Support Section by submitting an inquiry at www.fincen.gov/contact.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the 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),¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² The BSA is codified at 12 U.S.C.

¹ Pub. L. 107-56, 115 Stat. 272 (Oct. 26, 2001).

² 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 (Jan. 1, 2021).

1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, including notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, 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 intelligence or counter-intelligence activities, including analysis, to protect against terrorism, and to implement anti-money laundering/countering the financing of terrorism (AML/CFT) programs and compliance procedures.³ The Secretary has delegated to the Director of FinCEN (Director) the authority to administer the BSA.⁴

31 U.S.C. 5318(j) prohibits a covered financial institution⁵ from maintaining correspondent accounts in the United States for, or on behalf of, foreign banks that do not have a physical presence in any country. In addition, under 31 U.S.C. 5318(k), a covered financial institution maintaining a correspondent account in the United States for a foreign bank, must retain records identifying: (i) the owners of record and the beneficial owners of the foreign bank, and (ii) the name and address of a person residing in the United States who is authorized to accept service of legal process for the foreign bank.⁶ The regulations implementing 31 U.S.C. 5318(j) and 31 U.S.C. 5318(k) appear at 31 CFR 1010.630.

³ See 31 U.S.C. 5311(1)-(2).

⁴ Treasury Order 180-01 (*Reaffirmed* Jan. 14, 2020); see also 31 U.S.C. 310(b)(2)(I) (providing that the Director of FinCEN shall “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”).

⁵ A covered financial institution is any financial institution described in subparagraphs (A) through (G) of 31 U.S.C. 5312(a)(2), including an insured bank, as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)); a commercial bank or trust company; a private banker; an agency or branch of a foreign bank in the United States; any credit union; a thrift institution; and a broker or dealer registered with the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). 31 U.S.C. 5318(j)(1).

⁶ 31 U.S.C. 5318(k)(3)(A) and (B). The AML Act amended the provision by including a reference to “record and beneficial” ownership and by indicating, with respect to agents for service of process, that requests could involve records related to the correspondent account or accounts held at the foreign bank.

31 CFR 1010.630(a)(1) prohibits a covered financial institution⁷ from establishing, maintaining, administering, or managing correspondent accounts⁸ in the United States for, or on behalf of, foreign shell banks.⁹ A covered financial institution must take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank¹⁰ to indirectly provide banking services to a foreign shell bank.¹¹

31 CFR 1010.630(a)(2) requires a covered financial institution that maintains a correspondent account in the United States for a foreign bank to retain records in the United States identifying: (i) the owners¹² of each such foreign bank whose shares are not publicly traded,¹³ unless the foreign bank is required to file with the Federal Reserve Board a Form FR Y-7 that identifies the current owners of the foreign bank;¹⁴ and (ii) the name and street address of a person who resides in the United States and is authorized, and has agreed to be an agent to accept service of legal process for records regarding each such account.

⁷A covered financial institution for purposes of 31 CFR 1010.630 is: (i) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))); (ii) a commercial bank or trust company; (iii) a private banker; (iv) an agency or branch of a foreign bank in the United States; (v) a credit union; (vi) a savings association; (vii) a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); and (viii) a broker or dealer in securities registered, or required to be registered, with the SEC under the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), except persons who register pursuant to section 15(b)(11) of the Securities Exchange Act of 1934. 31 CFR 1010.605(e)(2).

⁸ For purposes of 31 CFR 1010.630, a correspondent account is defined as an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign bank, or to handle other financial transactions related to such foreign bank. 31 CFR 1010.605(c)(1)(ii).

⁹ Foreign shell bank means a foreign bank without a physical presence in any country. 31 CFR 1010.605(g).

¹⁰A foreign bank is defined as a bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law. 31 CFR 1010.100(u).

¹¹ Covered financial institutions are not prohibited from providing correspondent accounts or banking services to foreign shell banks that qualify as “regulated affiliates.” 31 CFR 1010.630(a)(1)(iii).

¹² “Owner” is defined at 31 CFR 1010.605(j) as any person who, directly or indirectly, owns, controls, or has the power to vote 25 percent or more of any class of voting securities or other voting interests of a foreign bank, or controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of a foreign bank.

¹³ The phrase “publicly traded” refers to shares that are traded on an exchange or on an organized over-the-counter market that is regulated by a “foreign securities authority” as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78C(a)(50)). 31 CFR 1010.630(a)(2)(iii).

¹⁴ 31 CFR 1010.630(a)(2)(ii).

31 CFR 1010.630(b) states that a covered financial institution will be deemed to be in compliance with the requirements of 31 CFR 1010.630(a) with respect to a foreign bank if the covered financial institution obtains, at least once every three years, a certification or recertification from the foreign bank. FinCEN has developed an optional form¹⁵ that a covered financial institution may use in obtaining the certification or recertification.

31 CFR 1010.630(c) requires a covered financial institution to request that a foreign bank verify or correct the information provided in such foreign bank's certification or recertification, if the covered financial institution knows, suspects, or has reason to suspect that such information is incorrect or no longer accurate. Additionally, the covered financial institution may take other appropriate measures to ascertain the accuracy of the information or to obtain the correct information.

If a covered financial institution has not obtained a certification or recertification, or otherwise obtained documentation of information needed for a certification or recertification, within 30 calendar days after the date the account is established, and at least once every three years thereafter, the covered financial institution must close all such foreign bank's correspondent accounts within a commercially reasonable time, and must restrict the foreign bank's ability to establish any new position or execute any new transactions through any such account other than those transactions necessary to close the account.¹⁶ If a covered financial institution conducting an interim verification pursuant to 31 CFR 1010.630(c) has not obtained verification of the information or corrected information within 90 calendar days after the date of undertaking the interim verification,

¹⁵ See "CERTIFICATION REGARDING CORRESPONDENT ACCOUNTS FOR FOREIGN BANKS," OMB Control Number 1506-0043, available at <https://www.fincen.gov/sites/default/files/shared/Certification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf>.

¹⁶ 31 CFR 1010.630(d)(2).

the covered financial institution must follow the same account closure procedures set out above.¹⁷

31 CFR 1010.630(d)(4) prohibits covered financial institutions from: (i) re-establishing any account closed pursuant to 31 CFR 1010.630(d); and (ii) establishing any other correspondent account with the foreign bank whose account was closed, unless the foreign bank provides the appropriate certification or recertification.

31 CFR 1010.630(d)(5) states that a covered financial institution will not be held liable to any person in any court or arbitration proceeding for terminating a correspondent account in accordance with 31 CFR 1010.630(d).

31 CFR 1010.630(e) requires covered financial institutions to retain any original document provided by a foreign bank, and the original or a copy of any document otherwise relied upon by the covered financial institution for purposes of complying with 31 CFR 1010.630, for at least five years after the date that a covered financial institution no longer maintains any correspondent account for such foreign bank, or longer if directed by the Secretary.

II. Paperwork Reduction Act of 1995 (PRA)¹⁸

Title: Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process (31 CFR 1010.630).

OMB Control Number: 1506-0043.

Form Number: Optional form — certification regarding correspondent accounts for foreign banks.¹⁹

Abstract: FinCEN is issuing this notice to renew the OMB control number for regulations prohibiting a covered financial institution from maintaining correspondent accounts for foreign shell banks and requiring a covered financial institution to maintain

¹⁷ 31 CFR 1010.630(d)(3).

¹⁸ Pub. L. 104-13, 109 Stat. 163 (May 22, 1995), codified at 44 U.S.C. 3506(c)(2)(A)).

¹⁹ See *supra* note 13.

records identifying the owners of certain foreign banks and agents residing in the United States who have agreed to accept service of legal process for records regarding correspondent accounts.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

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

Frequency: As required.

Estimated Number of Potential Respondents: 12,637 covered financial institutions.²⁰

A “covered financial institution,” as defined for purposes of 31 CFR 1010.630,²¹ is comprised of entities subject to the *Anti-money laundering (AML) program requirements for banks* at 31 CFR 1020.210 plus the entities subject to the *Anti-money laundering program requirements for brokers or dealers in securities* at 31 CFR 1023.210.²²

²⁰ Table 1 presents the distribution of financial institutions, by type, covered by this notice.

²¹ See *supra* notes 5 and 6.

²² See 31 CFR 1010.100(d). A wide variety of terms have been used at different times to describe various, sometimes overlapping categories of legal entities chartered by federal, state, or territorial authorities to take deposits and/or provide trust company services and comparable foreign entities licensed to engage in such business within the United States. This variety of terms and lack of sharp distinctions is a consequence of the complex legal history of banking in the United States, in which new regulatory schemes have often been added to existing legal frameworks, while acts of simplification and rationalization have been far less common. The BSA’s original language on this subject reflected this complexity. See Section 203(e)(1)-(6) of the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508 (Oct. 26, 1970), 84 Stat. 1119. The initial implementing regulations for the BSA rationalized this subject by referring to all of these legal entities by the single label “bank,” defined in a comparatively straightforward and comprehensive fashion. See Treasury Department, *Final Rule, Part 103—Financial Recordkeeping and Reporting of Currency and Foreign Transactions*, 37 FR 6912 (April 5, 1972). Neither statutory nor regulatory language on this subject has changed significantly in the ensuing five decades. This has had the practical advantage that the regulatory footprint of FinCEN’s bank-related regulations has been quite congruent from one regulation to another. FinCEN acknowledges, however, that the occasional reiteration of old terminology has obscured this practical advantage. FinCEN is taking the opportunity of the current notice to affirm that all FinCEN regulations that implement statutory obligations imposed on financial institutions described in 31 U.S.C. 5312(a)(2)(A)-(F) can count covered entities for purposes of burden calculation the way that FinCEN has developed to count the defined category “banks.” This is true even when regulations applicable to financial institutions described in 31 U.S.C. 5312(a)(2)(A)-(F) use a term other than “bank” such as “covered financial institution.” This congruence across regulations allows FinCEN to be able to explain more clearly how it counts regulated entities and calculates burden on a notice-by-notice basis, and to provide greater transparency about its methods more consistently across notices.

The *AML program requirements for banks* (31 CFR 1020.210) separate the category of “banks” in two broad categories: banks regulated by a Federal functional regulator²³ and banks lacking a Federal functional regulator.²⁴ FinCEN’s estimates of the potential respondents covered by this notice rely on a methodology that identifies banks by these groupings.

The distribution of financial institutions, by type, covered by this notice is reflected in table 1 below:

Table 1. Distribution of financial institutions covered by this notice

Type of Institution	Count
Banks with a Federal functional regulator (FFR)	8,922 ^a
Banks lacking an FFR	399 ^b
Brokers or dealers in securities (broker-dealers)	3,316 ^c
Total	12,637

^a This includes 4,467 Federal Deposit Insurance Corporation (FDIC)-insured depository institutions (including national banks, state banks that are members of the Federal Reserve System, state-chartered non-member banks, and insured U.S. branches of foreign banks, i.e., all federally regulated banks) according to the FDIC’s quarterly data summary for Q1 2025, and 4,455 National Credit Union Administration (NCUA)-insured credit unions (including federal credit unions and state-chartered credit unions with NCUA insurance, i.e., all federally regulated credit unions) according to NCUA’s quarterly credit union data summary for Q1 2025.

^b The Board of Governors of the Federal Reserve System Master Account and Services Database contains data on financial institutions that utilize Reserve Bank financial services, including those with no federal regulator. FinCEN used this data to identify 399 banks and credit unions utilizing Reserve Bank financial services with no federal regulator.

^c The SEC data on active broker-dealers (Company Information About Active Broker-Dealers) contains 3,316 active broker-dealers who are registered with the SEC.

Estimated Number of Expected Respondents: 104 covered financial institutions that maintain correspondent accounts with foreign banks.²⁵

While the regulations apply to banks and broker-dealers, in practice the recordkeeping costs would only accrue to the banks and broker-dealers that maintain correspondent accounts for foreign banks. Table 2 presents an estimate of this subpopulation of banks and broker-dealers based on public data from the most recent

²³ 31 CFR 1020.210(a).

²⁴ 31 CFR 1020.210(b).

²⁵ Table 2 provides FinCEN’s estimate of the number of banks and broker-dealers that maintain correspondent accounts for foreign banks.

available calendar year end. The methodology used to estimate the population in table 2, as a proper subset of the total potentially affected population, is consistent with the approach FinCEN utilized in its recent renewal of OMB control number 1506-0066 (CISADA)²⁶ and its recent proposal to impose 311 special measures with respect to Huione Group,²⁷ but has been updated to incorporate newly available data on affected entities.

²⁶ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Reporting Obligations on Foreign Bank Relationships With Iranian-Linked Financial Institutions Designated Under IEEPA and IRGC-Linked Persons Designated Under IEEPA*, 90 FR 14183 (Mar. 28, 2025).

²⁷ See, FinCEN, *Proposal of Special Measure regarding Huione Group, as a Foreign Financial Institution of Primary Money Laundering Concern*, 90 FR 18934 (May 5, 2025).

Table 2. Distribution of financial institutions, by type, estimated to maintain correspondent accounts for foreign banks

Type of financial institution	Number of financial institutions
Banks with an FFR	61 ^a
Banks lacking an FFR	17 ^b
Broker-dealers	26 ^c
Total	104

^a Data are from the Federal Financial Institution Examination Council Central Data Repository for Reports of Condition and Income (Call Reports) and Uniform Bank Performance Reports (UBPRs), available for most FDIC-insured institutions. Using this source of data, FinCEN determines that as of Q4 2024, approximately 61 banking organizations (national and state banks, trusts, thrifts and savings and loans, branches and agencies of foreign banking organizations, representative offices, Edge Act corporations, and agreement corporations) will be affected by this rule on any given year. Specifically, we determine that there are approximately 61 entities (U.S. banks; national and state-chartered banks, trusts, savings and loans, thrifts; branches and agencies of foreign banks; Edge Act corporations; and agreement corporations) that report values for deposit liabilities of banks in foreign countries. Non-zero deposit liabilities in a foreign country are treated as indicia that a bank maintains a correspondent account for at least one foreign financial institution. Credit unions, due to chartering restrictions, do not typically maintain foreign correspondent accounts.

^b The Board of Governors of the Federal Reserve System Master Account and Services Database contains data on financial institutions that utilize Reserve Bank financial services, including those with no federal regulator. FinCEN used this data to identify an additional 17 international banking entities with no federal regulator and who do not file Call Reports, but who are also likely to maintain correspondent accounts with a foreign financial institution.

^c Broker-dealers, unless they are publicly traded, are not required to make reports indicating whether they have foreign correspondent accounts or hold foreign deposits. FinCEN reviewed 10-Q (SEC quarterly filing for US publicly traded firms) and 6-K (SEC filing for foreign private issuers of securities) and identified nine publicly-traded broker-dealers with U.S. operations that reported foreign deposits. However, because many broker-dealers are not publicly traded, FinCEN conservatively estimates that the proportion of broker-dealers with foreign correspondent accounts will be similar to the proportion for banks (approximately 0.8%). 0.8% of 3,316 active broker-dealers is approximately 26 broker-dealers assumed to have foreign correspondent accounts.

Estimated Recordkeeping Burden:²⁸

FinCEN is implementing methodological changes in its approach to recordkeeping burden estimates in this renewal as part of certain, broader programmatic efforts to better align and harmonize PRA burden estimates across the OMB control numbers that pertain to a covered financial institution's BSA-related activities and AML/CFT program obligations. These changes are being undertaken with a view to both improving the accuracy and precision of the estimates in each individual renewal and enhancing the tractability of each component analysis within the context of FinCEN's full portfolio of active OMB control numbers.

In recent related renewals,²⁹ including the most recent prior renewal of 1506-0043,³⁰ FinCEN has noted certain practical challenges to determining the total number of covered financial institutions that maintain correspondent accounts for foreign banks, as well as challenges to estimating the total number of correspondent accounts for foreign banks that each of those covered financial institutions maintains. In the 2022 renewal notice related to these regulations, FinCEN previewed its intention to consider further

²⁸ In addition to requirements in 31 CFR 1010.630, a covered financial institution is subject to, among other requirements, AML/CFT program and due diligence requirements in 31 CFR 1010.610. The burden for a covered financial institution to comply with 31 CFR 1010.610 is included in OMB control number 1506-0046. OMB control number 1506-0046 was renewed in 2024, following a notice and request for comment published in the Federal Register. *See* FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts*, 89 FR 49273 (June 11, 2024). In the notice, FinCEN assigned an expected average recordkeeping burden of two hours per covered financial institution per year associated with the requirements in 31 CFR 1010.610. The burden estimates covered in this notice are meant to complement that burden estimate and should be considered an incremental assessment of the additional time and other costs related to recordkeeping as required by 31 CFR 1010.630 that are not otherwise accounted for under other OMB control numbers pertaining to the same (or similar) activities, including OMB control number 1506-0046.

²⁹ *See* FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts*, 89 FR 49273 (June 11, 2024) for the most recent renewal of OMB control number 1506-0046. *See* FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Recordkeeping and Termination of Correspondent Accounts for Foreign Banks*, 83 FR 42555 (Aug. 22, 2018) (the 2018 Shell Bank PRA Renewal) and FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process*, 87 FR 7919 (Feb. 10, 2022) (the 2022 Shell Bank PRA Renewal) for the last two renewals of OMB control number 1506-0043.

³⁰ *See supra* note 27. 2022 Shell Bank PRA Renewal.

harmonization and potential integration of PRA burden estimates across regulatory sections pertaining to due diligence requirements unique to the maintenance of foreign correspondent accounts.³¹ In addition, FinCEN has noted a paucity of publicly available data from which to derive estimates of the number of covered financial institutions that have an obligation under the regulation to obtain certification or recertification forms from foreign banks in any given year, how many of each type of certification is required in any given year, how often covered financial institutions need to conduct interim verifications for foreign banks for which they suspect the current information is no longer correct, and how frequently covered financial institutions need to determine if correspondent account closure is necessary.

To minimize these practical challenges, FinCEN has applied a different approach in one of its recent renewal notices.³² While increasing its estimates of the number of expected respondents, FinCEN concurrently has reduced its estimates of: (1) the implied number of foreign banks with correspondent accounts; and (2) the time burden of compliance with 31 CFR 1010.630 per foreign correspondent account.³³ Noting “that some covered financial institutions may only maintain a few correspondent accounts for foreign banks, while other covered financial institutions may maintain multiple correspondent accounts for foreign banks,”³⁴ FinCEN has projected that each covered financial institution would conduct one initial certification and one recertification each

³¹ “FinCEN assesses that the provisions of 31 CFR 1010.630 are in large part conducted in connection with the due diligence and enhanced due diligence covered financial institutions conduct on foreign correspondent accounts as required by 31 CFR 1010.610. In future supplemental annual PRA burden estimates for 31 CFR 1010.610 and 31 CFR 1010.630, FinCEN will consider whether the burden estimates for these two regulatory requirements should be linked and estimated together.” *Id.* at Section II.2.

³² *Id.*; see *supra* note 27.

³³ When FinCEN renewed OMB control number 1506-0043 in 2022, it estimated that there were 8,696 covered financial institutions with one or more correspondent accounts for foreign banks. See the 2022 Shell Bank PRA Renewal. In the preceding renewal, it estimated that there were 2,000 covered financial institutions with correspondent accounts for 9,000 foreign banks. See the 2018 Shell Bank PRA Renewal. In 2018, the PRA total burden estimate included an annual estimate of the following three items per covered financial institution: (i) 20 hours to complete a certification for a foreign bank; (ii) five hours to complete a recertification for a foreign bank; and (iii) nine hours to maintain records on the foreign bank's certification/recertification.

³⁴ *Id.*

year and assigned a corresponding total average annual burden of 30 hours per covered financial institution.³⁵ For each activity, respectively, the estimated (re)certification burden is intended to include time spent to obtain or update assurances from the foreign bank that it does not provide banking services, directly or indirectly, to a foreign shell bank; ownership information from the foreign bank, if necessary; and the name and address of an agent for service of legal process for the foreign bank residing in the United States. FinCEN also includes the time to review all documentation submitted by the foreign bank, and the time to maintain records of all documentation associated with the (re)certification process for the foreign bank. FinCEN's estimates have contemplated a covered financial institution obtaining the requisite (re)certification information via the provision of FinCEN's optional certification form to the foreign bank for which it maintained a correspondent account, which the foreign bank would then complete and return to the covered financial institution.

FinCEN now estimates the PRA burden of 31 CFR 1010.630 would comprise the following: 20 hours to complete a certification for a foreign bank, five hours to complete a recertification for a foreign bank, and nine hours to maintain records on the foreign bank's (re)certification. At the time of the original estimates, the initial 20 hours for a new certification was intended to include "the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information."³⁶ Because FinCEN maintains more than one active OMB control number that would potentially cover these activities (reviewing instructions, searching, gathering, and maintaining requisite data, and reviewing relevant

³⁵ See *supra* note 27. In the 2022 renewal of OMB control number 1506-0043, FinCEN revised its estimate to incorporate the recordkeeping component of the burden estimate within the certification and recertification process. FinCEN also revised its assessment of the time necessary to conduct a recertification, as the process is identical to a certification. For those reasons, FinCEN estimated the burden for a certification and corresponding recordkeeping was 15 hours; and the burden for a recertification and corresponding recordkeeping was also 15 hours.

³⁶ See *supra* note 13.

information) it is possible that prior burden assignments have overestimated the incremental PRA costs of the regulatory requirements.

In this notice, FinCEN is attempting to harmonize the burden hours implied by the aggregate estimates contained in the 2024 renewal of OMB control number 1506-0046, which did not make a distinction between entities that are potentially affected and those that are expected to incur costs, with the burden estimates here that do.³⁷ Accounting for these differences and retroactively applying certain simplifying assumptions,³⁸ the covered financial entities subject to, and expected to be affected by, 31 CFR 1010.630 would already be estimated to incur a burden of approximately 150 hours per year, on average,³⁹ in connection with due diligence activities over foreign correspondent accounts under 31 CFR 1010.610 as accounted for in the 2024 renewal of 1506-0046.

In the itemization below, FinCEN reviews the primary characteristics of the regulatory requirements and explains its intended revised assignment of annual PRA burden hours to those requirements.

a) 31 CFR 1010.630 (a):

31 CFR 1010.630(a) sets forth certain requirements for covered financial institutions with respect to correspondent accounts maintained for foreign banks. FinCEN's estimate of incremental burden per element of 31 CFR 1010.630(a) is discussed below.

³⁷ FinCEN intends to employ this methodological refinement across all relevant OMB control numbers going forward.

³⁸ For purposes of tractability in comparison to OMB control number 1506-0046, FinCEN assigns a 15-minute (0.25 hour) recordkeeping burden to entities that maintain neither foreign correspondent accounts nor private banking accounts. FinCEN then imposes a simplifying assumption that the residual recordkeeping burden to affected entities is twice as high for entities that maintain both foreign correspondent accounts and private banking accounts than entities that provide only one service or the other. The population of entities that offer private banking accounts is estimated using a size threshold of \$10 billion in total consolidated assets.

³⁹ Based on estimates derived from available bank data for calendar years 2023 and 2024 that averaged across and between cohorts that were expected to maintain both foreign correspondent and private banking accounts and those expected to maintain foreign correspondent accounts only.

(a)(1): While 31 CFR 1010.630(a)(1) does not prohibit a covered financial institution from providing a correspondent account or other banking services to a regulated affiliate,⁴⁰ it does prohibit a covered financial institution from establishing, maintaining, administering, or managing an account in the United States for, or on behalf of, a foreign shell bank.⁴¹ It also requires a covered financial institution to take reasonable steps to ensure that the accounts they establish, maintain, administer or manage for a foreign bank are not used to provide services to foreign shell banks indirectly.⁴² FinCEN is reducing the time burden of the recordkeeping requirements of (a)(1) to one hour per foreign correspondent account per year in the estimates in this renewal.

FinCEN has two reasons for this reduction. First, the absence of an activity (in this case, not establishing, maintaining, administering, or managing an account for a foreign shell bank), and obtaining evidence or assurances of that absence, is unlikely to generate significant or lengthy documentation.⁴³ Separately, while a covered financial institution is likely to document the reasonable steps it undertook to ensure that the foreign banks it serves are not shell banks themselves, and are not in turn providing services to foreign shell banks, these steps and their related recordkeeping burden would already be accounted for under either the recordkeeping burden of OMB control number 1506-0046 (which covers 31 CFR 1010.610) or the activities undertaken in connection with other components of 31 CFR 1010.630, particularly 1010.630(c), (d), and (e), since obtaining and verifying information,⁴⁴ retaining records of that information,⁴⁵ and closing

⁴⁰ 31 CFR 1010.630(a)(1)(iii)

⁴¹ 31 CFR 1010.630(a)(1)(i)

⁴² 31 CFR 1010.630(a)(1)(ii)

⁴³ For example, in Section C, if using the optional certification form provided by FinCEN (*see supra* note 13), a foreign bank may either self-identify as a shell bank by selecting a box or, by selecting one of two other boxes and completing three information fields, certify that is not a shell bank. Similarly, Section D of the optional certification form allows the foreign bank to certify that it does not indirectly provide services to any foreign shell bank by checking a box.

⁴⁴ 31 CFR 1010.630(c)

⁴⁵ 31 CFR 1010.630(e)

accounts when the requisite information cannot be obtained or verified⁴⁶ are all reasonable steps to take to ensure that foreign shell banks are not obtaining services indirectly. This assignment is generally consistent with the allocation of burden in the most recent prior renewal notice.⁴⁷

(a)(2)(i): 31 CFR 1010.630(a)(2)(i) requires a covered financial institution to maintain, in the United States, for each foreign bank for which the covered financial institution maintains a correspondent account: (1) records that identify the owners of the foreign bank⁴⁸ and (2) the name and address of an authorized agent who agrees to accept service of legal process for records and who resides in the United States. (There is a partial exception to the requirement to maintain ownership records: a covered financial institution does not have to maintain such records on foreign banks that have filed Form FR Y-7 with the Federal Reserve or that are publicly traded as defined in 31 CFR 1010.630(a)(2)(iii).) FinCEN is assigning zero hours of incremental burden to the requirements of this subsection because maintaining records of ownership and agent for service of legal process information are a proper subset of the recordkeeping activities required by 31 CFR 1010.630(e) and would otherwise be doubly counted if assigned recordkeeping burden hours as part of 31 CFR 1010.630(a) as well.

(a)(2)(ii) and (iii): FinCEN is also assigning zero burden hours to the remaining subsections of 31 CFR 1010.630(a)(2), as both 31 CFR 1010.630(a)(2)(ii) and (iii) define subpopulations of foreign banks for which a covered financial institution is not required to maintain ownership records. Exempting foreign banks that have a form FR Y-7 on file with the Federal Reserve Board (in 31 CFR 1010.630(a)(2)(ii)) and defining the scope of

⁴⁶ 31 CFR 1010.630(d)

⁴⁷ “FinCEN believes that the due diligence being conducted to comply with 31 CFR 1010.610(a) would be coordinated with the identification of foreign banks that have not provided the required certification, recertification, or interim verification within the required timeframes, resulting in the closure of correspondent accounts with such foreign banks consistent with 31 CFR 1010.610(d).” 87 FR 7294 (Feb. 10, 2022).

⁴⁸ As defined in 31 CFR 1010.605(j).

exempted banks whose shares are publicly traded to cover all foreign banks with shares traded on a market regulated by a foreign securities authority⁴⁹ (in 31 CFR 1010.630(a)(2)(iii)) are both expected to reduce paperwork and respondent burden. In part, the exemptions reduce burden by minimizing the duplication of effort in collecting information that is already reported to another authority or agency (and would thereby be available for investigative and enforcement purposes, as needed). Additionally, the exemptions remove what would otherwise be a redundant recordkeeping burden on covered financial institutions with respect to records that a regulatory agency or authority already maintains.

b) 31 CFR 1010.630 (b):

31 CFR 1010.630(b) establishes a safe harbor such that, provided a covered financial institution continues to meet its concurrent obligations under 31 CFR 1010.630(c) and (d), the financial institution need not obtain (re)certification of the foreign banks for whom it maintains correspondent accounts more than once per three years to satisfy its obligations under 31 CFR 1010.630(a). FinCEN notes that, to the extent that more frequent (re)certification is not otherwise required for business or other compliance purposes, the safe harbor is expected to reduce paperwork and respondent burden. Additionally, the records or documentation necessary to establish that the conditions of the safe harbor have been met should already be generated by the activities undertaken, thus the safe harbor would not independently create an incremental necessity to create and maintain records. For these reasons FinCEN has not assigned any hours of recordkeeping burden to 31 CFR 1010.630(b).

c) 31 CFR 1010.630 (c):

31 CFR 1010.630(c) clarifies that a covered financial institution would need to request verification or correction of any information in a (re)certification from its foreign

⁴⁹ 15 U.S.C. 78c(a)(50)

correspondent bank if the covered financial institution knows, suspects, or has reason to suspect that information it previously received from the foreign bank or otherwise relied upon to satisfy its original obligations under 31 CFR 1010.630(a) is no longer correct. The covered financial institution may be required to take other appropriate measures to ascertain the accuracy of the information in question or obtain correct information. At this time FinCEN is not in possession of data or other information that would enable it to estimate the frequency with which a covered financial institution must engage in interim verification on a per account basis for its foreign correspondent accounts, but preliminarily does not expect the necessity to be pervasive or recurring because it would be generally inconsistent with a financial institution's business interests to routinely engage with clients from whom and about whom it cannot maintain reliable and accurate information. FinCEN further expects that a substantial portion of the activities undertaken, and the artifacts memorializing those activities, to ascertain and maintain the accuracy of the information required under 31 CFR 1010.630(a) would not be readily distinguishable from other due diligence activities such as those generally conducted in the course of business, required as part of AML programs generally, and covered under 31 CFR 1010.610, specifically. FinCEN is therefore not assigning an incremental recordkeeping burden to this component under this OMB control number as part of the current renewal but has included additional requests for comment below that would help it assess the continued appropriateness of this approach.⁵⁰

d) 31 CFR 1010.630 (d):

31 CFR 1010.630(d) sets forth the requirements for account closure in the absence of necessary and timely (re)certification and other requisite verifications of information, as needed. FinCEN's estimate of incremental burden per element of 31 CFR 1010.630(d) is discussed below.

⁵⁰ See Additional Requests for Comment below, specifically, questions two and three.

(d)(1): At the time of the initial regulatory adoption of the requirements covered by this OMB control number, 31 CFR 1010.610(d)(1) provides an accommodation with respect to foreign correspondent accounts already in existence as of October 28, 2002, granting covered financial institutions 154 calendar days (102 business days) to bring such existing accounts into compliance with the requirements that accounts established after October 28, 2002 would have only 30 calendar days to comply with.

While this accommodation of additional time reflects FinCEN's past efforts to balance a desire to reduce regulatory compliance burdens with time-sensitive needs to implement policies in the interest of national security, 31 CFR 1010.610(d)(1) is no longer expected to meaningfully reduce burden because the accounts to which it applies have now had the same requirements with respect to timely production of information and/or (re)certification as newer accounts for over 22 years.

(d)(2): 31 CFR 1010.630(d)(2) concerns obtaining the (re)certification or required information needed to prevent a foreign bank's correspondent account closure. As discussed in Section I, foreign correspondent accounts established after October 28, 2002, must be closed within a commercially reasonable time and may not be used to establish new positions or execute transactions other than those transactions necessary to close the account if (re)certification or the information necessary for (re)certification cannot be obtained within 30 days of the original establishment of the account and at least once every three years thereafter. As such, the requirement to obtain information and/or (re)certification with respect to foreign correspondent accounts under 31 CFR 1010.630 flows, indirectly, from the regulatory obligation to close any foreign correspondent account for which the requisite (re)certification and other information can either not be obtained timely or generally.

FinCEN is assigning a recordkeeping time burden of two hours associated with the activities necessary to obtain the (re)certification or required information needed to

prevent a foreign bank's correspondent account closure. This burden estimate, as a reduction from prior renewals, reflects certain considerations for how FinCEN anticipates compliance to be operationalized, including what activities it considers incremental to other due diligence obligations, who undertakes the activity unique to 31 CFR 1010.630, as well as what, and to what extent, related records are incremental to other recordkeeping activities.

Because it has provided an optional certification form that a covered financial institution could employ to satisfy its obligations under 31 CFR 1010.630, FinCEN assumes that a covered financial institution would only elect to employ other means to meet its regulatory requirements if the institution considered its alternative approach to more appropriately or efficiently balance the costs and benefits of its activities. FinCEN further expects that a covered financial institution would not bear the primary burden of producing the information or completing the optional FinCEN (re)certification because it is expected to be completed by the foreign bank for whom the covered financial institution maintains its correspondent account. The paperwork burden that accrues to the foreign bank in connection with 31 CFR 1010.630 is not included in the estimates of this OMB control renewal. In part, this is because FinCEN does not have: (1) the data necessary to articulate the distribution of foreign banks who would complete a (re)certification or otherwise provide the required information to its U.S. covered financial institution, (2) information on what types of labor the foreign bank employs to perform its reporting activities, and (3) information on what the prevailing market rates are for those employees' labor in the currencies in which they are compensated or their corresponding U.S. dollar equivalents. Additionally, it is unclear whether assessing a magnitude of incremental burden to the foreign bank beyond a *de minimis* threshold is appropriate. A foreign bank is, in the course of its ordinary business, usually aware of its ownership, its U.S. agent for service of process, and the characteristics of its clients that

would need to be disclosed in the optional (re)certification form it receives from the covered financial institution that maintains its correspondent account and would therefore not be forced to undertake extensive incremental effort to provide this information upon request. FinCEN is requesting comment on the reasonableness of this approach as well as any data or anecdotal information that would either support its approach or any alternative approach proposed as an improvement.⁵¹

(d)(3): 31 CFR 1010.630(d)(3) requires a covered financial institution to close all correspondent accounts with any foreign bank that fails to provide verification or corrected information within 90 days of when the covered financial institution first undertook its inquiry. Once a foreign correspondent account is closed due to an inability to timely obtain verification or revised information from the foreign bank, a covered financial institution is not permitted to reestablish the account or establish any new accounts with the foreign bank. FinCEN is not assigning an incremental recordkeeping burden to compliance with 31 CFR 1010.630(d)(3) because the records generated by closing an existing account and/or not opening any new accounts when a foreign bank does not provide verification or corrected information are expected to be included in the records documenting a covered financial institution's other extended due diligence activities.

(d)(4): 31 CFR 1010.630(d)(4) concerns reestablishment of accounts. Once a foreign correspondent account is closed due to an inability to timely obtain (re)certification or the information necessary for (re)certification, a covered financial institution is not permitted to reestablish the account or establish any new accounts with the foreign bank until the covered financial institution receives the foreign bank's requisite (re)certification. FinCEN does not, at this time, have data or other information that would enable it to separately estimate the number of (re)certifications pursued or

⁵¹ See Additional Requests for Comment below, specifically, questions seven and eight.

obtained by covered financial institutions per year in connection with (re)establishing accounts otherwise prohibited by 31 CFR 1010.630(d)(4).⁵² Nevertheless, FinCEN's estimate of approximately 177 (re)certifications, on average, conducted by a given covered financial institution per year is intended to include these (re)certifications. The associated burden per (re)certification is expected to be four hours, on average.⁵³

(d)(5): 31 CFR 1010.630(d)(5), as discussed above in Section I, limits the liability of a covered financial institution in the event that the termination of a correspondent account executed in compliance with 1010.630(d) results in a court or arbitration proceeding. Because the threat of liability, generally, introduces a degree of additional uncertainty, it may, in some cases lead to overinvestment in activities solely taken in a defensive posture; at the same time, it can create incentives to permit activities that would otherwise not occur because the expected private costs to litigation (or arbitration) would accrue to the covered financial institution while the public harm from forgoing such costs would be externalized. To the extent that additional activities and documentation would otherwise have been undertaken prophylactically, this provision is expected to reduce paperwork and the compliance burden associated with 31 CFR 1010.630 generally. Concurrently, the provision is expected to reduce costs to the public by better aligning the private incentives of a covered financial institution with the level of account closures that is in the public interest. FinCEN assigns zero incremental recordkeeping burden to this component of the renewal.

e) 31 CFR 1010.630 (e):

31 CFR 1010.630(e) requires a covered financial institution to retain the records necessary to demonstrate compliance with 31 CFR 1010.630 for no fewer than five years

⁵² See Additional Requests for Comment below, specifically, question 12.

⁵³ Four hours per covered financial institution to obtain a (re)certification is the summation of one hour to comply with 31 CFR 1010.630(a)(1); two hours to comply with 31 CFR 1010.630(d)(2) or (d)(4); and one hour to comply with 31 CFR 1010.630(e).

after the closing of a foreign correspondent account, or longer if directed by the Secretary. The records to be maintained include both any original documents provided to a covered financial institution by a foreign bank, and either the original or a copy of any other document the covered financial institution relies upon to satisfy its regulatory requirements. FinCEN is assigning one burden hour per foreign correspondent account for which (re)certification is undertaken in a given year.

FinCEN is mindful that in some cases, covered financial institutions may incur certain technology costs related to the requesting, processing, and secure storage of account-related data and information unique to FinCEN requirements. FinCEN is therefore soliciting comments on the appropriateness of assigning a technology cost to these requirements and invites the public to provide data related to the incremental annual costs incurred by an affected covered financial institution associated with this retention of records.

f) 31 CFR 1010.630 (f)(1)-(3):

31 CFR 1010.630(f) presents special rules to facilitate a covered financial institution's compliance with requirements to obtain information and (re)certifications, and retain records (in 31 CFR 1010.630(f)(3)), subject to the applicable interim guidance (in 31 CFR 1010.630(f)(1)) regarding information requested before October 28, 2002 and received on or before December 26, 2002 (in 31 CFR 1010.630(f)(2)). As FinCEN does not expect any current or future recordkeeping burden to accrue in connection with information requested and/or received more than 20 years ago, it is assigning a zero-burden hour estimate to this component.

In sum, and in comparison to previous renewals, the scope of the annual PRA burden and cost estimates in this renewal is limited to recordkeeping associated with the following activities: (1) obtaining certification forms and recertification forms; and

(2) maintaining records of the forms and any supporting documentation provided by foreign banks or otherwise obtained by the covered financial institution.

The annual hourly burden per affected covered financial institution for each foreign bank for which it maintains a correspondent account is four hours. This estimate covers the burden to a covered financial institution to:

- obtain assurances from the foreign bank that it is not providing banking services, directly or indirectly, to a foreign shell bank (one hour, 1010.630(a)(1));
- obtain and review ownership information from the foreign bank, if necessary, including the name of an agent based in the United States who has agreed to accept service of legal process for records regarding such correspondent account (two hours, 1010.630(d)(2) or (d)(4)); and
- maintain records of all documentation associated with the certification process for the foreign bank (one hour, 1010.630(e)).

FinCEN estimates the annual hourly burden for a covered financial institution to obtain and maintain a recertification form from a foreign bank for which it maintains a correspondent account is also four hours. FinCEN believes the hourly burden estimate for a recertification is the same as for a certification because the covered financial institution can use the same certification form to reconfirm all of the information required in the initial certification.

As noted above, a covered financial institution is required to obtain an initial certification and a recertification once every subsequent three years from each foreign bank for which it maintains a correspondent account. FinCEN estimates that there are approximately 104 covered financial institutions that maintain at least one correspondent account for a foreign bank. FinCEN is using this number to approximate the aggregate number of certifications and recertifications expected affected covered financial institutions need to conduct annually.

To estimate the average number of expected (re)certifications per affected covered financial institution per year, FinCEN has consulted publicly available sources of data on the number of active foreign correspondent accounts in a given year. Select data in a report from the Bank for International Settlements' (BIS) Committee on Payments and Market Infrastructures (CPMI) suggests that there are hundreds of thousands of correspondent banking relationships globally, though the number has steadily declined over time.⁵⁴ As measured by SWIFT messaging flows, by the end of the most recent year for which data is available (2022), approximately 90,000 bank pairs worldwide appear active in a given month.⁵⁵ Additional data from the BIS indicates that, for countries in North America, the average number of direct counterparty countries was 89.2 in 2022, representing a 12.9 percent decrease over the period 2011-2022.⁵⁶

FinCEN does not expect a covered financial institution to maintain correspondent accounts for foreign banks from each of the approximately 90 countries suggested by the BIS estimate, as a given bank with foreign correspondent account relationships would be expected to select the foreign banks for which it will maintain a correspondent account based on factors such as demand, transaction volume, compliance costs, and money laundering risk.⁵⁷ Some banks may maintain only a few correspondent relationships, while others may maintain more. While specific data on the number of foreign correspondent accounts per U.S. covered financial institution is not publicly available, a recent study by the European Central Bank found that among the fifteen banks surveyed (all of which were large banks that maintained the highest concentration of foreign correspondent accounts in Europe) the average number of foreign banks for which

⁵⁴ See BIS Committee on Payments and Market Infrastructures: Correspondent Banking, 16 (Graph 3a) July 2016, <https://www.bis.org/cpmi/publ/d147.pdf>; see also Rice, Tara and von Peter, Goetz and Boar, Codruta, On the Global Retreat of Correspondent Banks (March 1, 2020). BIS Quarterly Review, March 2020.

⁵⁵ See CPMI correspondent banking chartpack, Table 5. Available at, https://www.bis.org/cpmi/paysysinfo/corr_bank_data/chartpack_2305.pdf, accessed May 5, 2025.

⁵⁶ *Id.*

⁵⁷ See supra note 50.

surveyed the banks maintained accounts in 2019 was approximately 500.⁵⁸ Because the maintenance of foreign correspondent accounts decreased by a larger amount in both Northern and Southern Europe over the BIS period of study (2011-2022, which includes the year of the ECB report (2019)), but for the full period both regions maintained higher average numbers of direct counterparty countries than North America,⁵⁹ FinCEN conservatively estimates that for purposes of its PRA estimates each covered bank or broker-dealer with foreign correspondent accounts will maintain at least the same number (500) of correspondent banking relationships for foreign banks, on average, over a three year horizon and is requesting comment on this approach.⁶⁰

Estimating the number of foreign correspondent account openings per year for each bank that maintains them is also challenging. A study by the World Bank indicates that countries often have hundreds of accounts closures and openings per year.⁶¹ This research is also supported by the International Monetary Fund (IMF), which reports similar figures.⁶² Beginning new foreign correspondent relationships can be challenging and often requires significant upfront deposits.⁶³ However, these figures can vary by country, and a large economy like the United States can be expected to have a significant number of account closures and openings each year. FinCEN estimates that each covered

⁵⁸ See European Central Bank, Eleventh survey on correspondent banking in euro, November 2020. <https://www.ecb.europa.eu/pub/pdf/other/ecb.eleventhsurveycorrespondentbankingeuro202011~c280262151.en.pdf>.

⁵⁹ See, generally, CPMI correspondent banking chartpack, available at https://www.bis.org/cpmi/paysysinfo/corr_bank_data/chartpack_2305.pdf, accessed May 5, 2025.

⁶⁰ See Additional Requests for Comment below, specifically, questions 1 and 9.

⁶¹ The World Bank cited an example of one country whose banks had closed 158 foreign correspondent accounts across 66 foreign banks in 17 foreign countries in 2017. See *The Decline in Access to Correspondent Banking Services in Emerging Markets: Trends, Impacts, and Solutions*, World Bank (2018). <https://thedocs.worldbank.org/en/doc/786671524166274491-0290022018/render/TheDeclineinAccesstoCorrespondentBanking.pdf>.

⁶² A 2017 report by the IMF indicated that banks in Panama, a relatively small economy, had opened 63 new foreign correspondent accounts in 2016. See *Recent Trends in Correspondent Banking Relationships: Further Considerations*, The International Monetary Fund, 2017. <https://www.imf.org/en/Publications/Policy-Papers/Issues/2017/04/21/recent-trends-in-correspondent-banking-relationships-further-considerations>.

⁶³ See *The Decline in Access to Correspondent Banking Services in Emerging Markets: Trends, Impacts, and Solutions*, World Bank (2018). <https://thedocs.worldbank.org/en/doc/786671524166274491-0290022018/render/TheDeclineinAccesstoCorrespondentBanking.pdf>.

bank or broker-dealer with foreign correspondent accounts will open approximately ten new correspondent accounts per year.

FinCEN's estimate of the annual PRA burden, therefore, is 73,632 hours, as detailed in table 3 below:

Table 3 – Annual hourly burden for all affected covered financial institutions to comply with 31 CFR 1010.630

Compliance requirement under 31 CFR 1010.630	Estimated number of affected covered financial institutions	Hourly burden	Average number of correspondent accounts per respondent	Total burden hours
Obtain and record a certification per foreign bank	104 ^a	4 hours	10	4,160
Obtain and record a recertification per foreign bank	104	4 hours	167 ^b	69,472
Total				73,632
^a See table 2. ^b 500 existing accounts requiring recertification once every three years (assuming one third of the accounts are recertified each year) is 166.66 accounts per year.				

To estimate the costs associated with the annual PRA burden hours, FinCEN is utilizing the fully-loaded composite hourly wage rate of \$120.07, or rounded to the nearest dollar, \$120.00.⁶⁴ The total estimated cost of the annual PRA burden is \$8,835,840, as reflected in table 4 below:

⁶⁴ The wage rate applied here is a general composite hourly wage (\$85.55), scaled by a private-sector benefits factor of 1.42 ($\$120.07 = \85.55×1.42), that incorporates the mean wage data (available for download at <https://www.bls.gov/oes/tables.htm>, “May 2023 - National industry-specific and by ownership”) associated with the six occupational codes (11-1010: Chief Executives; 11-3021: Computer and Information Systems Managers; 11-3031: Financial Managers; 13-1041: Compliance Officers; 23-1010: Lawyers and Judicial Law Clerks; 43-3099: Financial Clerks, All Other) for each of the nine groupings of NAICS industry codes that FinCEN determined are most directly comparable to its eleven categories of covered financial institutions as delineated in 31 CFR parts 1020 to 1030. The benefit factor is 1 plus the benefit/wages ratio, where as of June 2023, Total Benefits = 29.4 and Wages and salaries = 70.6 ($29.4/70.6 = 0.42$) based on the private industry workers series data downloaded from https://www.bls.gov/news.release/archives/ecec_09122023.pdf, https://www.bls.gov/news.release/archives/ecec_09122023.pdf, accessed December 22, 2024. Given that many occupations provide benefits beyond cash wages (e.g., insurance, paid leave, etc.), the private sector benefit is applied to reflect the total cost to the employer.

Table 4. Total cost of annual PRA burden

Compliance requirements under 31 CFR 1010.630	Burden hours	Wage rate	Total cost
Time taken for covered financial institutions to obtain certifications from foreign banks, including recordkeeping.	4,160 ^a	\$120.00 ^b	\$499,200
Time taken for covered financial institutions to obtain recertifications from foreign banks, including recordkeeping.	69,472 ^c	\$120.00	\$8,336,640
Total cost			\$8,835,840
^a See table 3. ^b See footnote 64. ^c See table 3.			

Estimated Recordkeeping Burden: The average estimated annual PRA burden, measured in hours per correspondent account maintained by a covered financial institution for a foreign bank, is four hours per account for the purpose of fulfilling the covered financial institution's initial certification and corresponding recordkeeping obligations, and four hours per account for the purpose of fulfilling the covered financial institution's recertification and corresponding recordkeeping requirements every three years.

Estimated Number of Respondents/Responses: 104 covered financial institutions maintain correspondent accounts for foreign banks.

Estimated Total Annual Recordkeeping Burden: The estimated total annual PRA burden is 73,632 hours, as set out in table 3.

Estimated Total Annual Recordkeeping Cost: The estimated total annual PRA cost is \$8,835,840, as set out in table 4.

Under the PRA, FinCEN as a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Requests for Comment: 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.

General Request for Comments — Comments are invited on: (1) 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; (2) the accuracy of FinCEN estimates of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) 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 (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Additional Requests for Comment — In connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN is conducting ongoing, iterative assessments of the PRA burden associated with BSA requirements. To assist with those activities, FinCEN is accepting comments responsive to the specific requests included in the most recent prior renewal and is requesting comments in response to the additional questions listed below, which include modifications and updates to questions from the previous renewal as well as new requests that accompany the revised methodology and estimates in this notice.

- 1) Are there additional sources of data (public, commercial, or proprietary, for example) that would enable FinCEN to more precisely estimate the number of correspondent accounts that covered financial institutions maintain in a given year? Would the same sources, or other sources, enable FinCEN to estimate the rate of new account openings and/or closings of existing accounts on an annual basis as well?

- 2) Consistent with the intentions communicated in the most recent prior renewal notice, FinCEN is working to better harmonize its collective burden estimates across the OMB control numbers in its portfolio. In this renewal, it has modified recordkeeping burden estimates, in part, to account for the implied per-institution burden associated with 31 CFR 1010.610 (OMB control number 1506-0046). Is the current allocation across the different regulatory requirements generally consistent with current market practices in aggregate? Is it generally accurate on an incremental or per-item basis? If not, please provide actionable suggestions for improvements upon FinCEN's current methods and estimates.
- 3) FinCEN considered in the previous OMB control number renewal notice, and continues to consider, the potential overlap in the burden-generating activities associated with the overall due diligence requirements with respect to correspondent accounts for foreign financial institutions, including the related program requirements detailed in 31 CFR 1010.610. Are there data, studies, reports, or anecdotal information that would improve FinCEN's estimation and allocation of PRA burdens to the respective elements of its regulatory portfolio? If so, please include or provide a reference in response.
- 4) 31 CFR 1010.630(a)(2)(ii) and (iii) exempt foreign banks that file a Form FR Y-7 or are publicly traded (as defined) from the requirement to maintain lists of owners. The current notice does not assign an incremental recordkeeping burden to obtaining the information necessary to establish that an exemption is available for a given foreign correspondent account. The current notice also does not attempt to parse such exempted accounts from its estimate of the number of correspondent accounts an expected affected financial institution maintains. Is this assignment consistent with current market practices? If not,

please provide information about the methods, persons, and time involved in establishing that an exemption applies.

- 5) How does a financial institution identify potentially incorrect information, and what steps does it take, if it has reason to suspect that the information provided by a foreign bank in its certification or recertification is incorrect? Are there any additional steps (beyond a recertification request) taken by the financial institution with respect to the foreign bank's correspondent account if the correct information cannot be obtained that would generate documentation or records that must be maintained but are currently unaccounted for in FinCEN's estimates (for example, additional requests to the foreign bank for additional information or notifications of account termination)? What is the role or level of engagement with senior management in this process?
- 6) FinCEN notes above that it considers interim verifications to be uncommon. What is the likelihood with any given correspondent account that a financial institution would need to conduct an interim verification, because it suspects a foreign bank's existing certification information is no longer correct? How long does the process take?
- 7) To what extent do estimates that exclude the reporting and recordkeeping burdens on foreign banks potentially underestimate the full PRA burden associated with this OMB control number?
- 8) Should FinCEN revise its PRA burden estimates to account for the burden on affected foreign banks? Why or why not? If it should, please suggest sources or provide data that would facilitate this update.
- 9) Please comment, preferably including, or with reference to, the data relied upon to make such comments, on FinCEN's estimates of the number of banks

that maintain correspondent accounts for foreign banks. In particular,

FinCEN invites:

(a) public comment on the accuracy of its population estimates.

(b) submission of information about the characteristics of affected U.S. banks (those that maintain foreign correspondent accounts) that may affect those banks' ability to incur the reporting and recordkeeping requirements associated with this FinCEN regulation (such as size or operational constraints).

10) Does your financial institution have a process to track correspondent accounts for foreign banks for reasons other than to comply with BSA requirements?

11) Do covered financial institutions use the sample certification form provided by FinCEN for compliance and recordkeeping purposes, or is it more common to use a bespoke form or other method to obtain either a statement of certification or other information required to satisfy 31 CFR 1010.630 obligations? On average, how long does it take to obtain and review the information provided by a foreign bank as part of its certification or recertification?

12) Are there instances where a foreign bank seeks to reestablish a correspondent banking relationship with a covered financial institution after the foreign bank's correspondent account was closed due to a failure to certify or recertify? If so, how commonly does this occur? Are there additional costs associated with these instances?

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