

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 78-79

June 14, 1978

AMENDMENT TO BANK SECRECY ACT REGULATIONS

TO ALL STATE MEMBER BANKS IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

We have been advised that the Treasury Department recently issued an amendment to its Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations (31 CFR 103), which requires any bank or other financial institution that sells or redeems a certificate of deposit on or after June 1, 1978, to maintain a record of the transaction which shall include the date, the name, address, and taxpayer identification number of the purchaser or owner thereof.

Printed on the following pages is a copy of the Department of the Treasury's notice of amendment as it appeared in the *Federal Register*. Any questions should be directed to our Bank Supervision and Regulations Department, Ext. 6274.

Sincerely yours,

Robert H. Boykin

First Vice President

Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-492-4403 (intrastate) and 1-800-527-4970 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

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[4810-25]

**Title 31—Money and Finance:
Treasury**

**CHAPTER I—MONETARY OFFICES,
DEPARTMENT OF THE TREASURY**

**PART 103—FINANCIAL RECORDKEEP-
ING AND REPORTING OF CURREN-
CY AND FOREIGN TRANSACTIONS**

Recordkeeping Required

AGENCY: Department of the Treas-
ury.

ACTION: Final rule.

SUMMARY: This amendment re-
quires any bank or other financial in-
stitution that sells or redeems a certif-
icate of deposit on or after June 1,
1978, to maintain a record of the
transaction which shall include the
date, name, address and the taxpayer
identification number of the purchas-
er or owner thereof. The information
is needed for law enforcement pur-
poses.

EFFECTIVE DATE: June 1, 1978.

**FOR FURTHER INFORMATION
CONTACT:**

Robert J. Stankey, Assistant to the
Director, Office of Law Enforce-
ment, U.S. Department of the Treas-
ury, Room 1462, Washington, D.C.
20220, 202-566-5630.

SUPPLEMENTARY INFORMATION:
The Treasury Department published a

notice of proposed rulemaking in the FEDERAL REGISTER on March 16, 1978 [43 FR 10940]. This notice proposed that banks and other financial institutions be required to maintain a record of the date of redemption of each certificate of deposit sold or redeemed after May 15, 1978, including the above-described information, in order to impede the efforts of persons engaged in illegal activities to conceal their financial transactions relating to those activities. The notice provided that comments received on or before April 17, 1978, would be considered before action is taken on the proposed rule.

DISCUSSION OF COMMENTS

A total of 19 letters have been received. They include 10 from banks and savings and loan associations, 3 from industry associations, 1 from a member of the general public, and 5 from State and Federal financial regulatory agencies. While a majority of the responses are in substantial agreement with the proposal, some expressed general opposition and many contain technical suggestions for improving the language.

Four of the letters from financial institutions opposed the principal provisions of the proposal. The following summary lists the reasons given as a basis for that opposition together with the Treasury Department's responses:

1. In the opinion of this group of respondents, the amendment would be ineffective in impeding the concealment of financial transactions relating to illegal activities. Although the proposal would require a record of the identities of the purchaser and the person presenting a certificate for redemption, there is no provision for recording the identity of any other person who may purchase it.

Response: While the Department recognizes the fact that the proposal would not provide a complete record of the ownership of a negotiable certificate of deposit, the proposed amendment would assure the retention of records that would be highly useful in tracing the ownership of such a certificate.

2. The additional recordkeeping which would be required under the proposal would increase the operating costs of financial institutions that issue certificates of deposit.

Response: It is our understanding that most financial institutions currently create records which would satisfy the requirements of the proposal. It is recognized, however, that some institutions may not be retaining those records as long as the amendment would require. Nevertheless, in our opinion, the added cost to some institutions, of longer record retention is counter-balanced by the value of the requirement to law enforcement activities.

3. Adequate information is presently maintained for capital notes and registered certificates of deposit.

Response: It is the Department's belief that, in most instances, financial institutions are maintaining adequate records. The proposal would merely ensure that the relatively small number which have not been keeping these records will do so in the future.

4. Certificates of deposit are often bought and sold through agents. Therefore, it would disrupt the investment and collection procedures of the financial community to require the issuing institution to identify the principal in each transaction.

Response: The Department recognizes the practical difficulties that this requirement would entail in certain instances and has modified the proposal to shift the responsibility for keeping records identifying the principal, when an agent acts as intermediary, to the agent.

While two of the industry associations expressed their approval of the proposed amendment, a third opposed the inclusion of capital notes or debentures. The opposition was based on the belief that (1) the Bank Secrecy Act does not authorize the Treasury Department to require records of capital instruments of banks, and (2) the issuance of capital notes or debentures currently is regulated by Federal bank supervisory agencies and adequate records are maintained.

Although the Department believes that it has the necessary authority to require recordkeeping of capital instruments, there does not appear to be sufficient justification for including capital instruments in the proposal. Consequently, the amendment has been modified accordingly.

TEXT OF AMENDMENT

Section 103.34 of Part 103, Title 31, Code of Federal Regulations, is amended by revising paragraphs (a) (1) and (3) and by adding paragraphs (b) (11) and (12) to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall, within 45 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 45-day period specified, the required identification, it shall never-

theless not be deemed to be in violation of this section if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b) (11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction.

* * * * *

(3) A taxpayer identification number required under paragraph (a)(1) of this section need not be secured for accounts or transactions with the following: (i) Agencies and instrumentalities of Federal, State, local or foreign governments; (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court; (iii) aliens who are (A) ambassadors, ministers, career diplomatic or consular officers, or (B) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families; (iv) aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. sec. 288), and the members of their immediate families; (v) aliens temporarily residing in the United States for a period not to exceed 180 days; (vi) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government; (vii) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter, (viii) a person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than \$10; (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than \$10; and (x) non-resident aliens who are not engaged in a trade or business in the United States. In instances described

in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year is \$10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

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(11) A record containing the name, address, and taxpayer identification number, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.

(12) A record containing the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

Dated: May 9, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-13623 Filed 5-18-78; 8:45 am]