



FEDERAL RESERVE BANK  
OF DALLAS

TONY J. SALVAGGIO  
FIRST VICE PRESIDENT

September 10, 1993

DALLAS, TEXAS 75222

Notice 93-94

**TO:** The Chief Operating Officer of  
each financial institution in the  
Eleventh Federal Reserve District

**SUBJECT**

Request for Public Comment  
on Proposed Amendments to Regulation S  
(Reimbursement to Financial Institutions for Assembling  
or Providing Financial Records)

**DETAILS**

The Federal Reserve Board has requested public comment on proposed amendments to Regulation S (Reimbursement to Financial Institutions for Assembling or Providing Financial Records) regarding enhanced recordkeeping requirements for certain wire transfers by financial institutions. These amendments would incorporate by reference certain proposed provisions of 31 CFR 103.33(e), (f), and (g).

The proposed amendments are developed jointly with the Department of the Treasury to implement revisions to the Bank Secrecy Act as required by the Annunzio-Wylie Anti-Money Laundering Act of 1992.

The recordkeeping amendments are divided into three sections:

- requirements for depository institutions;
- requirements for nonbank financial institutions that do not generally maintain accounts for their customers;
- requirements for securities broker/dealers that generally maintain account relationships with their customers.

Generally, institutions are required to maintain records of funds transfers that they process. To the extent that an institution handles a funds transfer for a party that does not hold an account with the institution, the institution is required to document proof of the identity of the party of the transfer and retain pertinent information. To the extent that a bank or broker/dealer holds an account for its customer, it is presumed to have

information that identifies the customer and, therefore, need not obtain and retain this information under this proposal.

This notice also proposes to amend the existing regulation that allows the Department of the Treasury to require reports of certain transactions with targeted foreign financial institutions to permit the Treasury to require reports of all wire transfers by financial institutions. The record-keeping requirements applicable to international wire transfers are required by statute to be effective before January 1, 1994. For ease of implementation, the Treasury and the Board intend to make the proposed recordkeeping requirements (applicable to both domestic and international wire transfers) effective on December 31, 1993.

Each comment on the provisions of this proposed notice should be sent separately to both the Department of the Treasury and the Board of Governors. Comments must be received by October 4, 1993. Comments to the Board should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 and should refer to Docket No. R-0807. Comments to the Treasury should be addressed to Peter Djinis, Director, Office of Financial Enforcement, Department of the Treasury, Room 5000 Annex, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

#### ATTACHMENT

Copies of the Board's and the Treasury's notices as they appear on pages 46014-27, Vol. 58, No. 167, of the Federal Register dated August 31, 1993, are attached.

#### MORE INFORMATION

For more information, please contact James Dean at (214) 922-6237. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 922-5254.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tanya A. Salzman".

# Registered Federal Reserve

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**Tuesday  
August 31, 1993**

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## **Part IV**

### **Federal Reserve System**

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**12 CFR Part 219**

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### **Department of the Treasury**

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**31 CFR Part 103**

**Transmittal of Funds by Financial  
Institutions; Proposed Rules**

**FEDERAL RESERVE SYSTEM**

[Docket No. R-0807]

**DEPARTMENT OF THE TREASURY****31 CFR Part 103****Proposed Amendment to the Bank Secrecy Act Regulations Relating to Recordkeeping for Funds Transfers and Transmittals of Funds by Financial Institutions**

**AGENCIES:** Department of the Treasury; Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice is published jointly by the Department of the Treasury (Treasury) and the Board of Governors of the Federal Reserve System (Board). It proposes enhanced recordkeeping requirements relating to certain wire transfers (which include funds transfers and transmittals of funds) by financial institutions. Each domestic financial institution involved in a wire transfer will have to collect and retain certain information. The amount and type of information collected and retained will depend upon the nature of the financial institution, its role in the particular wire transfer, and the relationship of the parties to the transaction with the financial institution. This notice also proposes to amend the existing regulation that permits Treasury to require reports of certain transactions with targeted foreign financial institutions to permit Treasury to require reports of all wire transfers by financial institutions. A companion Notice of Proposed Rulemaking (Companion Notice), also published elsewhere in this issue of the **Federal Register** by Treasury, proposes to require a financial institution that sends a transmittal order to a receiving financial institution to include certain information in the order. The recordkeeping requirements applicable to international wire transfers are required by statute to be effective before January 1, 1994. For ease of implementation, Treasury and the Board propose to make the proposed recordkeeping requirements (applicable to both domestic and international wire transfers) effective on December 31, 1993.

**DATES:** Comments are due on or before October 4, 1993.

**ADDRESSES:** Each comment should be sent separately to both the Treasury and the Board at the following addresses:

*Treasury:* Mr. Peter Djinis, Director, Office of Financial Enforcement,

Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220;

*Board:* Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles, Secretary, Board of Governors of the Federal Reserve System, should refer to Docket No. R-0807. Comments may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW.

*Submission of Comments:* All comments received before the closing date will be carefully considered. Oral comments must be reduced to writing and submitted to the Board and/or Treasury to receive consideration. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. Neither the Board nor Treasury will recognize as confidential any materials or comments, including the name of any person submitting comments. Any material not intended to be disclosed to the public should not be included in the comments.

*Inspection of Comments:* Comments may be inspected at the Federal Reserve Board, 20th and Constitution Avenue, NW., Washington, DC, in room B-1122 between 9 a.m. and 5 p.m., as provided in part 261 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8. Comments may also be inspected at the Department of Treasury between 10 a.m. and 4 p.m. in the Treasury Library, which is located in room 5030, 1500 Pennsylvania Avenue, NW., Washington, DC. Persons wishing to inspect the comments submitted should request an appointment at the Treasury Library at (202) 622-0990.

**FOR FURTHER INFORMATION CONTACT:**

*Treasury:* A. Carlos Correa, Assistant Director, Rules and Regulations Section, Office of Financial Enforcement, Department of the Treasury, (202) 622-0400.

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

**SUPPLEMENTARY INFORMATION:** The statute generally referred to as the Bank Secrecy Act (Pub. L. 91-508, codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5328) authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. The primary purpose of the Bank Secrecy Act is to identify the source, volume and movement of funds into and out of the country and through domestic financial institutions. The Bank Secrecy Act was amended last year in the Annunzio-Wylie Anti-Money Laundering Act of 1992, title XV of the Housing and Community Development Act of 1992, Public Law 102-550 (referred to hereafter as the 1992 Amendment) to specifically authorize the Treasury and the Board jointly to prescribe regulations to require maintenance of records regarding domestic and international funds transfers.

To enable the Board to participate in the joint promulgation of the funds transfer regulations as required under the unique statutory scheme established by the 1992 Amendment, title 31 is proposed to be amended with the concurrence of the Board. In conjunction with this action, the Board also publishes elsewhere in this issue of the **Federal Register** a proposed rule document that cross-references these regulations in title 12 of the CFR.

The 1992 Amendment authorizes the Board and the Treasury to promulgate recordkeeping requirements for domestic wire transfers by insured depository institutions whenever the agencies determine that such records have a high degree of usefulness in criminal tax or regulatory investigations or proceedings. In addition, the 1992 Amendment requires the Treasury and the Board to issue final regulations with regard to international transactions to be effective before January 1, 1994. The recordkeeping requirements for international transactions will apply to financial institutions as defined in 31 CFR 103.11(i), which includes insured depository institutions, brokers and dealers in securities, as well as businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments (collectively referred to as check cashing and money transmitting businesses). In prescribing these required regulations, the Board and the Treasury must take into consideration the usefulness of these records in criminal, tax, or regulatory



investigations or proceedings and the effect the recordkeeping will have on the cost and efficiency of the payment system. The Board and the Treasury have decided that it would be simpler to issue proposed regulations for both domestic and international funds transfers simultaneously, because the recordkeeping requirements will be the same.

Additionally, issuing proposed regulations for both domestic and international funds transfers at this time coincides with a separate but related Treasury initiative. As noted in testimony before the House Banking Committee on May 25, 1993, by Assistant Secretary Noble (Enforcement), the Department of the Treasury would be, and is now, conducting a comprehensive examination of its anti-money laundering programs, including the Bank Secrecy Act regulations. Comments received in response to this Notice and the Companion Notice will be carefully considered as part of this comprehensive examination.

The number of wire transfers completed daily is substantial. For example, the daily average number of wire transfers made over Fedwire in 1992 was 270,000, with average aggregate daily dollar amount of \$800 billion and a peak aggregate daily dollar amount of over \$1 trillion.

Money laundering is a vital component of drug trafficking and other criminal activity throughout the world, and federal law enforcement agencies believe that a significant amount of the money laundered involves wire transfers. Proceeds from illegal activities may be processed through money laundering schemes involving domestic and/or international payments by wire transfers. Such activity has been documented in several recent investigations conducted by Treasury and other federal law enforcement agencies. The Board and the Treasury believe that the records to be retained under this proposed rulemaking will be particularly useful in tracing the proceeds of illegal activities and will assist in the identification and prosecution of individuals involved in such illegal activities. Accordingly, Treasury and the Board believe that maintenance of these records will have a high degree of usefulness in criminal, tax, or regulatory investigations of money laundering operations. Further, the Treasury and the Board believe that these recordkeeping requirements will not have a significant adverse impact on the cost or the efficiency of the payments system.

In addition to retention of records covered by the proposed rule, federal law enforcement agencies have indicated that having certain customer identity information (*i.e.*, the originator's and beneficiary's name, address and account number) included in the payment order has a high degree of usefulness for law enforcement purposes. This issue is being addressed by the Companion Notice published today by Treasury elsewhere in this issue of the *Federal Register*. As an interim measure, the Federal Financial Institutions Examination Council (FFIEC) has adopted a policy statement encouraging all financial institutions to include, to the extent practical, complete originator and beneficiary information when sending payment orders, including payment orders sent through Fedwire, Clearinghouse Interbank Payment System (CHIPS) and Society for Worldwide Interbank Financial Telecommunications (SWIFT). (See FFIEC Press Release dated March 11, 1993, 58 FR 14400, March 17, 1993.)

Although at present there is insufficient space in the Fedwire format to include complete originator and beneficiary information, the Board encourages users of the Fedwire system to use available optional fields in the Fedwire format to include such information. For example, in a third-party transfer, the originator (ORG=) and beneficiary (BNF=) fields must contain data in order to be accepted by the Fedwire system. While these fields contain enough space to identify the originator and beneficiary by name and account number, sufficient space is generally not available for including address information. If optional fields, such as the "Originator to Beneficiary Information" (OBI=) or "Bank to Bank Information" (BBI=) fields, are not being used for payment-related information, these fields could be used to convey the address information. No specific optional field is recommended for including address information as different optional fields may be available for use in any given wire transfer.

The Federal Reserve System is currently studying possible revisions to the Fedwire format and expects to publish a *Federal Register* notice in the future inviting comment on proposed requirements that specific originator and beneficiary information be included in Fedwire funds transfers.

#### Regulatory Background

On October 31, 1989, Treasury published an Advance Notice of Proposed Rulemaking to address the use

of the international funds transfer system by money launderers. 54 FR 45769. The Advance Notice suggested seven regulatory initiatives, including enhanced recordkeeping, routine reporting of funds transfers and transmittals, and enhanced identification of suspicious transactions. After review of the comments submitted in response to the Advance Notice, Treasury published a Notice of Proposed Rulemaking on October 15, 1990, setting forth specific proposed amendments to the Bank Secrecy Act regulations, and proposing enhanced record collection and recordkeeping by all financial institutions engaged in domestic and international funds transfers. 55 FR 41696. Treasury received a total of 333 comments on the October 15, 1990, proposal. The vast majority of comments were received from financial institutions, particularly from banks. While most of the commenters generally opposed the proposal, many discussed the specific effects the various proposals would have on their institutions, explained what information concerning funds transfers is currently maintained by their institutions, and presented alternative means of effecting Treasury's objectives of ensuring the availability of necessary information without disrupting the current funds transfer system. All comments received in response to the Advance Notice and the Notice are on file at the Treasury, at the address indicated above, and are available for public inspection during regular business hours.

After enactment of the 1992 Amendment, which includes the Board in the rule making process, Treasury and the Board agreed to revise the proposed rule and jointly publish a new proposed rule. The Treasury and the Board believe that, in many cases, the information required to be retained by this proposal is already maintained by financial institutions. The Treasury believes that the proposal is responsive to many of the concerns raised in the comments on the 1990 proposal. Moreover, in view of Treasury's comprehensive review of its anti-money laundering programs and formation of its Bank Secrecy Act Advisory Group, it seemed appropriate to renote this proposal rather than to issue a final rule at this time.

#### Summary Description of the Revised Proposed Rule

##### General Overview

The proposed rule is divided into three components: requirements for a bank; requirements for a nonbank

financial institution other than a broker or dealer in securities that has an account for the transmitter/recipient; and requirements for a broker or dealer in securities that has an account for the transmitter/recipient. The recordkeeping requirements for these three types of institutions are generally parallel, but additional collection requirements are proposed for transactions involving persons who do not maintain an account with the bank or other financial institution involved. This distinction is based on the Board's and Treasury's belief that banks and brokers or dealers in securities already retain most of the desired information in their customer records and will not need to gather duplicate information.

The recordkeeping requirements are designed to facilitate tracing of funds through the wire transfer process. At financial institutions that are acting on behalf of an account holder, the required information will usually be included in the payment order and in the customer account records. In such cases retention of the payment order with the customer account records will satisfy the proposed recordkeeping requirements.

Comments on all aspects of the proposed regulation are welcome. The Treasury and the Board specifically request comment on the usefulness of the records covered by the proposed rule for law enforcement purposes and the effects that the proposed rule might have on the cost and efficiency of the payment system.

#### Definitions

Several new definitions are proposed in section § 103.11. The following new definitions are intended to be identical to the same terms used for banks in Uniform Commercial Code (UCC) Article 4A: "beneficiary", "beneficiary's bank", "intermediary bank", "originator", "originator's bank", "payment order", and "receiving bank". Other definitions referring to transactions by nonbank financial institutions would be added, and these are intended to parallel the equivalent definitions in UCC Article 4A: "intermediary financial institution", "receiving financial institution", "recipient", "recipient's financial institution", "transmittal of funds", "transmittal order", "transmitter", and "transmitter's financial institution". Because "financial institution" is already defined to include "bank", the new terms used for nonbank financial institutions are written to include transactions by banks. For example, the definition of the term "transmittal order" includes a "payment order".

Separate definitions specifically for bank transactions have been added for clarity and conformity with the UCC. Other terms, such as "execution date", "payment date" and "sender", have been modified slightly from the UCC Article 4A definition to specifically include transactions by nonbank financial institutions as well as banks.

The proposed definition of the term "funds transfer" differs from the same term in UCC Article 4A in that it excludes all automated clearinghouse (ACH) transfers or funds transfers governed in any part by the Electronic Funds Transfer Act of 1978 (15 U.S.C. 1693, *et seq.*). The term "accept" differs from the definition of "acceptance" in UCC Article 4A. It includes transactions by nonbank financial institutions, and it does not spell out the rights and obligations of the parties to the transaction upon acceptance or rejection of a payment order.

In addition, the words, "For purposes of § 103.29 of this part," that appear in § 103.11(g), have been deleted to allow the term "deposit account" to be used in the amendments to § 103.33.

#### Retention of Records by Banks

This proposed rule would require banks to retain information on funds transfers that is likely to be in the records of the bank in the case of bank customers who have deposit accounts or loans with the bank, or which can be easily obtained from noncustomers. This information need not be retained alphabetically by name or numerically by account number; but the bank must be able to access the funds transfer records readily by name or account number of the originator or beneficiary, as the case may be, and may do so through reference to some other record maintained by the bank. Existing § 103.38(d) would be applicable to these records, and requires retention for five years from the execution date of the payment/transmittal order.

An originator's bank will be required to retain the following information for a payment order that it accepts: (A) The name and address of the originator; (B) the amount of the funds transfer; (C) the execution date of the payment order; (D) any payment instructions received from the originator; (E) the identity of the beneficiary's bank; and (F) either the name and address or the account number of the beneficiary of the payment order, if such information is received with the payment order. It is expected that an originator's bank accepting a payment order from a customer will have most of the required information either in its account records or in the payment order. (Originator's

banks are encouraged to collect from the originator complete information regarding the beneficiary of a payment order.) If the originator does not have a deposit account or loan with the originator's bank, then the originator's bank will be required to verify the originator's name and address before accepting the payment order, and must retain a record of that verified information as well as a record of the originator's social security number, alien identification number, or employer identification number, or note the lack of such a number in the record.

An intermediary bank that accepts a payment order must retain either the original or a duplicate of the payment order.

A beneficiary's bank that accepts a payment order must retain either the original or a duplicate of the payment order. If the beneficiary has a deposit account or loan with the bank, then the bank is expected to have the beneficiary's name and address already in its records in a retrievable form. If the payment order is for a beneficiary that does not have a deposit account or a loan with the bank, then the beneficiary's bank must obtain and retain a record of the beneficiary's name and address, and social security number, alien identification number, or employer identification number, or note the lack of such a number in the record. Furthermore, the beneficiary's bank must verify the beneficiary's name and address whenever it delivers the proceeds of the funds transfer in person to a beneficiary who does not have a deposit account or loan with the bank. If the proceeds are not delivered in person, then a copy of the instrument (e.g., check) used to send the proceeds must be retained.

The following funds transfers are exempt from these recordkeeping requirements:

- (i) Funds transfers where both the originator and the beneficiary are domestic banks;
- (ii) Funds transfers where both the originator and beneficiary are the same domestic bank or one is the wholly-owned domestic subsidiary of the other;
- (iii) Funds transfers where both the originator and the beneficiary are the same person and the originator's bank and the beneficiary's bank are the same domestic bank; and
- (iv) Funds transfers where both the originator and the beneficiary are either a domestic bank, the United States, any state or local government, or a federal, State or local government agency or instrumentality.



### *Retention of Records by Nonbank Financial Institutions*

The proposed record retention requirements for nonbank financial institutions differ depending on whether the nonbank financial institution is a broker or dealer in securities. A special category of requirements is being proposed for a broker or dealer in securities that maintains an account for the transmitter or recipient. Accordingly, no verification requirements are proposed for transmittals of funds by a broker or dealer in securities which makes or receives transmittals of funds for an account holder.

### *Nonbank Financial Institutions That Are Not Brokers or Dealers*

These nonbank financial institutions are more likely than banks or brokers or dealers to send or receive transmittals of funds for persons with whom they have no regular account relationship and therefore, no existing records. Accordingly, these nonbank financial institutions must collect, verify and retain information that may not be in their existing records. The retained information must be retrievable by the name of the transmitter. (These requirements also apply to brokers and dealers in securities that send or receive transmittals of funds on behalf of persons for which they do not maintain an account.)

A transmitter's nonbank financial institution must verify the transmitter's name and address prior to accepting a transmittal order, and it shall maintain a record of that information. In addition, the nonbank financial institution shall obtain and retain:

(A) The transmitter's social security number, alien identification number, or employer identification number; or, if the transmittal of funds is on the nonbank financial institution's own behalf, a statement to that effect;

(B) The amount of the transmittal order;

(C) The execution date of the transmittal order;

(D) Any payment instructions received from the transmitter with the transmittal order;

(E) The name and address of the recipient of the transmittal of funds; and

(F) Any form completed by the person or the nonbank financial institution relating to the transmittal of funds.

An intermediary nonbank financial institution that accepts a transmittal order shall retain either the original or a duplicate of the transmittal order.

A recipient's nonbank financial institution that accepts a transmittal

order shall retain the original or a duplicate of the transmittal order, as well as the name, address, and social security number, alien identification number or employer identification number of the recipient. If the recipient's nonbank financial institution delivers the proceeds of a transmittal of funds in person to the recipient, it shall verify the name and address of the recipient and retain a record of that information. If the recipient's nonbank financial institution sends the proceeds of a transmittal of funds by written instrument (e.g., check, draft), it shall retain a copy of the instrument or the information contained thereon, and the name and address of the person to whom it was sent.

### *Retention of Records by Brokers and Dealers*

These requirements apply only to transmittals of funds that a broker or dealer in securities (which is also a type of nonbank financial institution) sends or receives for a person for which it has an account. The retained records must be readily retrievable by either the name or account number of the broker/dealer's account holder.

A transmitter's broker/dealer must retain the following information for a transmittal order that it accepts:

(A) The name of the transmitter;

(B) The amount of the transmittal of funds;

(C) The execution date of the transmittal order;

(D) Any payment instructions received from the transmitter;

(E) The identity of the recipient's financial institution; and

(F) Either the name and address or the account number of the recipient, if received with the transmittal order.

An intermediary broker/dealer must retain either the original or a duplicate of each transmittal order that it accepts.

A recipient's broker/dealer must retain either the original or a duplicate of each transmittal order that it accepts.

The following transactions are exempt from these requirements: Transmittals of funds where both the transmitter and the recipient are each a domestic broker or dealer in securities transmitting on its own behalf; transmittals of funds on their own accounts between a domestic broker or dealer in securities and its bank or the broker dealer's wholly owned subsidiary; transmittals of funds between domestic accounts at the same domestic broker or dealer where both the transmitter and the recipient are the same person; and transmittals of funds between a domestic broker or dealer and a governmental agency.

### **Executive Order 12291**

In response to its October 15, 1990 Notice of Proposed Rulemaking, Treasury received many detailed comments on the projected costs of the proposed rule. Many of the provisions identified in those comments as imposing undue costs or burdens on the financial services community have been either revised, clarified or eliminated. In particular, today's proposed rule would allow many financial institutions to rely upon information systems already in place without diminishing the nature and quality of the information required to be maintained. This modification significantly reduces the resources and effort required of financial institutions to comply with the terms of today's proposed rule. As a result of these significant cost reductions, today's proposed rule is categorized as non-major for purposes of Executive Order 12291. Today's proposal, if adopted as a final rule, will not have an annual effect on the economy of \$100 million or more. Nor will it result in a major increase in costs or prices for consumers; individual industries; federal, state, or local government agencies; or geographic regions. It will not have any significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Therefore, a regulatory impact analysis is not required.

### **Initial Regulatory Flexibility Analysis**

As required by 5 U.S.C. 603(b), a "description of the reasons why action by the agency is being considered" and a "succinct statement of the objectives of, and legal basis for, the proposed rule" are found elsewhere in this preamble.

The Board and the Treasury propose that the requirements in this rule be applicable to all financial institutions subject to the Bank Secrecy Act, as implemented, regardless of their size. An exemption for small entities would not be appropriate because it would permit money laundering operations to evade the recordkeeping process by using small financial institutions. This would significantly diminish the usefulness of these records for criminal, tax or regulatory investigations.

The small entities that will be affected by this proposed rule include small banks and many check cashing and money transmitting businesses. In order to minimize the economic impact on small entities, the rule would allow financial institutions that send or

receive transmittal orders for account holders to use existing records to satisfy some of the recordkeeping requirements. The Board and the Treasury do not believe that the proposed rule would impose reporting or recordkeeping burdens on small entities that require specialized professional skills not available to them.

#### Paperwork Reduction Act

The collection of information contained in this Notice of Proposed Rulemaking has been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1505-0063. Comments on the collection of information and the burden estimate should be directed to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, DC 20503, and to the Treasury and the Board at the addresses noted above.

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

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

Estimated total annual recordkeeping burden: 6.5 million hours.

Estimated average annual burden per respondent and/or recordkeeper: 108.3 hours.

Estimated annual frequency of responses: Upon request.

#### List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks, banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

#### Proposed Amendment

For the reasons set forth in the preamble, 31 CFR part 103 is proposed to be amended as set forth below:

#### PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 is revised to read as follows:

**Authority:** Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951-1959); and Pub. L. 91-508, title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5328).

2. Section 103.11 is amended by redesignating paragraphs (a), (b), (c) through (h), (i) through (k), (l), (m), (n), (o), (p) through (r), and (s) through (u)

as paragraphs (b), (c), (f) through (k), (m) through (o), (s), (t), (y), (dd), (ff) through (hh), and (mm) through (oo), respectively; by removing the words "For purposes of § 103.29 of this part, deposit" and adding in their place, "Deposit" in newly designated paragraph (j); and adding new paragraphs (a), (d), (e), (l), (p), (q), (r), (u), (v), (w), (x), (z), (aa), (bb), (cc), (ee), (ii), (jj), (kk), and (ll) to read as follows:

#### § 103.11 Meaning of terms.

\* \* \* \* \*

(a) *Accept.* A receiving financial institution, other than the recipient's financial institution, accepts a transmittal order by executing the transmittal order. A recipient's financial institution accepts a transmittal order by paying the recipient, by notifying the recipient of the receipt of the order or by otherwise becoming obligated to carry out the order.

\* \* \* \* \*

(d) *Beneficiary.* The person to be paid by the beneficiary's bank.

(e) *Beneficiary's bank.* The bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

\* \* \* \* \*

(l) *Execution date.* The day on which the receiving financial institution may properly issue a transmittal order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received, and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the recipient on the payment date.

\* \* \* \* \*

(p) *Funds transfer.* The series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order. Automated clearinghouse transfers or funds transfers governed in any part by the Electronic Funds Transfer Act of 1978 (title XX, Public Law 95-630, 92

Stat. 3728, 15 U.S.C. 1693 *et seq.*) are excluded from this definition.

(q) *Intermediary bank.* A receiving bank other than the originator's bank or the beneficiary's bank.

(r) *Intermediary financial institution.* A receiving financial institution, other than a bank, the transmittor's financial institution or the recipient's financial institution.

\* \* \* \* \*

(u) *Originator.* The sender of the first payment order in a funds transfer.

(v) *Originator's bank.* The receiving bank to which the payment order of the originator is issued if the originator is not a bank, or the originator if the originator is a bank.

(w) *Payment date.* The day on which the amount of the transmittal order is payable to the recipient by the recipient's financial institution. The payment date may be determined by instruction of the sender, but cannot be earlier than the day the order is received by the recipient's financial institution and, unless otherwise prescribed by instruction, is the date the order is received by the recipient's financial institution.

(x) *Payment order.* An instruction of a sender, to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(1) The instruction does not state a condition to payment to the beneficiary other than time of payment;

(2) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(3) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds transfer system, or communication system for transmittal to the receiving bank.

\* \* \* \* \*

(z) *Receiving bank.* The bank to which the sender's instruction is addressed.

(aa) *Receiving financial institution.* The financial institution to which the sender's instruction is addressed. The term receiving financial institution includes a receiving bank.

(bb) *Recipient.* The person to be paid by the recipient's financial institution. The term recipient includes a beneficiary.

(cc) *Recipient's financial institution.* The financial institution identified in a transmittal order in which an account of the recipient is to be credited pursuant to the transmittal order or which otherwise is to make payment to the recipient if the order does not provide for payment to an account. The term



recipient's financial institution includes a beneficiary's bank.

\* \* \*

(ee) *Sender*. The person giving the instruction to the receiving bank or receiving financial institution.

\* \* \*

(ii) *Transmittal of funds*. A series of transactions beginning with the transmitter's transmittal order, made for the purpose of making payment to the recipient of the order. The term includes any transmittal order issued by the transmitter's financial institution or an intermediary financial institution intended to carry out the transmitter's transmittal order. A transmittal of funds is completed by acceptance by the recipient's financial institution of a transmittal order for the benefit of the recipient of the transmitter's transmittal order. Automated clearinghouse transfers and funds transfers governed in any part by the Electronic Funds Transfer Act of 1978 (title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693 *et seq.*) are excluded from this definition. The term transmittal of funds includes a funds transfer.

(jj) *Transmittal order*. The term transmittal order includes a payment order and is an instruction of a sender to a receiving financial institution, transmitted orally, electronically, or in writing, to pay, or to cause another financial institution to pay, a fixed or determinable amount of money to a recipient if:

(1) The instruction does not state a condition to payment to the recipient other than time of payment;

(2) The receiving financial institution is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(3) The instruction is transmitted by the sender directly to the receiving financial institution or to an agent or communication system for transmittal to the receiving financial institution.

(kk) *Transmitter*. The sender of the first transmittal order in a transmittal of funds. The term transmitter includes an originator.

(ll) *Transmitter's financial institution*. The receiving financial institution to which the transmittal order of the transmitter is issued if the transmitter is not a financial institution, or the transmitter if the transmitter is a financial institution. The term transmitter's financial institution includes an originator's bank.

\* \* \*

3. Paragraph (b)(2) of § 103.25 is revised to read as follows:

**§ 103.25 Reports of transactions with foreign financial agencies.**

\* \* \*

(b) \* \* \*

(2) Transmittal orders received by a respondent financial institution from a foreign financial agency or sent by respondent financial institution to a foreign financial agency, including all information maintained by that institution pursuant to § 103.33.

\* \* \*

4. Section 103.33 is amended by adding new paragraphs (e), (f) and (g), to read as follows:

**§ 103.33 Records to be made and retained by financial institutions.**

\* \* \*

(e) With respect to funds transfers:

(1)(i) For each payment order that it accepts as an originator's bank, a bank shall retain either the original, a microfilm or other copy, record, or reproduction of the following information relating to the payment order:

(A) The name and address of the originator of the payment order;

(B) The amount of the funds transfer;

(C) The execution date of the payment order;

(D) Any payment instructions received from the originator with the payment order;

(E) The identity of the beneficiary's bank; and

(F) Either the name and address or the account number of the beneficiary of the payment order, if received with the payment order.

(ii) For each payment order that it accepts as an intermediary bank, a bank shall retain either the original, a microfilm, or other copy, record, or reproduction of the payment order.

(iii) For each payment order that it accepts as a beneficiary's bank, a bank shall retain either the original, a microfilm, or other copy, record, or reproduction of the payment order.

(2)(i) Prior to accepting a payment order from an originator that does not have a deposit account or loan with the bank, an originator's bank shall verify the originator's name and address by examination of a document that contains such information; and, if it accepts the payment order, record and retain a record of that information, the type of identification reviewed, and the number of the identification document (e.g., driver's license). In addition to the information required in paragraph (e)(1)(i) of this section, the bank shall obtain and retain a record of the originator's social security number, alien identification number, or employer identification number.

(ii) Verification of the name and address of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a Provincial driver's license with indication of home address).

Verification of name and address in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (e.g., a driver's license).

(iii) If the originator does not have a social security number, alien identification number, or employer identification number, the lack of such a number shall be noted in the record.

(3)(i) For each payment order that it accepts as a beneficiary's bank for a beneficiary that does not have a deposit account or loan with that bank, in addition to maintaining the information required in paragraph (e)(1)(iii) of this section, a beneficiary's bank shall obtain and retain a record of the beneficiary's name and address, and social security number, alien identification number, or employer identification number. If the beneficiary does not have a social security number, alien identification number, or employer identification number, the lack of such a number shall be noted in the record.

(ii) If a beneficiary's bank delivers the proceeds of a funds transfer, in person, to a beneficiary that does not have a deposit account or loan account with that bank, a beneficiary's bank shall verify the beneficiary's name and address by examination of a document that contains such information, and retain a record of that information, the type of identification reviewed, and the number of the identification document (e.g., driver's license).

(iii) Verification of the name and address of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a Provincial driver's license with indication of home address). Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (e.g., a driver's license). If a beneficiary's bank sends the proceeds of a funds transfer in the form of a check or other written instrument to a

beneficiary that does not have a deposit account or loan account with that bank, that bank shall retain a copy of the check or other written instrument, or the information contained thereon, and the name and address of the person to whom it was sent.

(4) The information that an originator's bank must retain under paragraphs (e)(1)(i) and (e)(2)(i) of this section shall be readily retrievable by the originator's bank by reference to either the name or account number of the originator. The information that a beneficiary's bank must retain under paragraphs (e)(1)(iii) and (e)(3)(i) of this section shall be readily retrievable by the beneficiary's bank by reference to either the name or account number of the beneficiary.

(5) The following funds transfers are not subject to the requirements of this paragraph:

(i) Funds transfers where both the originator and the beneficiary are domestic banks;

(ii) Funds transfers where both the originator and beneficiary are the same domestic bank or one is the wholly-owned domestic subsidiary of the other;

(iii) Funds transfers where both the originator and the beneficiary are the same person and the originator's bank and the beneficiary's bank are the same domestic bank; and

(iv) Funds transfers where both the originator and the beneficiary are either a domestic bank, the United States, any state or local government, or a Federal, state or local government agency or instrumentality.

(f) With respect to a transmittal of funds:

(1) Prior to accepting a transmittal order from a transmitter, a transmitter's financial institution, other than a bank or a broker or dealer in securities that has an account for the transmitter, shall verify the transmitter's name and address by examination of a document that contains such information; and, if it accepts such transmittal order, record and retain a record of that information, the type of identification reviewed, and the number of the identification document (e.g., drivers license no.). Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a Provincial driver's license with indication of home address). Verification of identity in any other case shall be made by examination of a document, other than a bank signature card, that is normally acceptable within

the banking community as a means of identification when cashing checks for nondepositors (e.g., a drivers license). In addition, the financial institution shall obtain and retain the original, or a microfilm or other copy, record, or reproduction of the following information relating to the transmittal order:

(i)(A) The transmitter's social security number, alien identification number, or employer identification number, if the transmitter has any such numbers or a notation in the record of the lack thereof; or

(B) If the transmittal of funds is by the financial institution on its own behalf, a statement to that effect;

(ii) The amount of the transmittal order;

(iii) The execution date of the transmittal order;

(iv) Any payment instructions received from the transmitter with the transmittal order;

(v) The name and address of the recipient of the transmittal of funds; and

(vi) Any form completed by the person or the financial institution relating to the transmittal of funds.

(2) For each transmittal order that it accepts as an intermediary financial institution, a financial institution, other than a bank or broker or dealer in securities, shall retain either the original, a microfilm, or other copy, record, or reproduction of the transmittal order.

(3)(i) For each transmittal order that it accepts as a recipient's financial institution, a financial institution, other than a bank or a broker or dealer in securities that has an account for the recipient, shall retain the original or a microfilm, or other copy, record, or reproduction of the transmittal order; and the name, address, and the social security number, alien identification number or employer identification number of the recipient. If the recipient does not have a social security number, alien identification number, or employer identification number, the lack of such a number shall be noted in the record.

(ii) If a recipient's financial institution, other than a bank or broker or dealer in securities that has an account for the recipient, delivers the proceeds of a transmittal of funds in person to the recipient, the financial institution shall verify the name and address of the recipient by examination of a document that contains such information and shall retain a record of that information, the type of identification reviewed, and the number of the identification document (e.g., drivers license). If a recipient's financial

institution, other than a bank or a broker or dealer in securities that has an account for the recipient, sends the proceeds of a transmittal of funds to the recipient in the form of a check or other written instrument, the financial institution shall retain a copy of the check or other written instrument, or the information contained thereon, and the name and address of the person to whom it was sent.

(4) The information that a transmitter's financial institution must retain under paragraph (f)(1) of this section shall be readily retrievable by the transmitter's financial institution by reference to the name of the transmitter. The information that a recipient's financial institution must retain under paragraph (f)(3) of this section shall be readily retrievable by the recipient's financial institution by reference to the name of the recipient. This information need not be retained alphabetically by name, but the financial institution must be able to access the transmittal of funds records readily by name of the transmitter or recipient, as the case may be, and may do so through reference to some other record maintained by the financial institution.

(g) With respect to a transmittal of funds:

(1) For each transmittal order that it accepts as a transmitter's financial institution, a broker or dealer in securities that has an account for the transmitter shall retain either the original, a microfilm or other copy, record, or reproduction of the following information relating to the transmittal order:

(i) The name and address of the transmitter of the transmittal order;

(ii) The amount of the transmittal of funds;

(iii) The execution date of the transmittal order;

(iv) Any payment instructions received from the transmitter with the transmittal order;

(v) The identity of the recipient's financial institution; and

(vi) Either the name and address or the account number of the recipient of the transmittal of funds, if received with the transmittal order.

(2) For each transmittal order that it accepts as an intermediary financial institution, a broker or dealer in securities shall retain either the original, a microfilm, or other copy, record, or reproduction of the transmittal order.

(3) For each transmittal order that it accepts as a recipient's financial institution, a broker or dealer in securities that has an account for the recipient shall retain either the original,



a microfilm, or other copy, record, or reproduction of the transmittal order.

(4) The information that a transmitter's financial institution must retain under paragraph (g)(1) of this section shall be readily retrievable by the transmitter's financial institution by reference to either the name or account number of the transmitter. The information that a recipient's financial institution must retain under paragraph (g)(3) of this section shall be readily retrievable by the recipient's financial institution by reference to either the name or account number of the recipient. This information need not be retained alphabetically by name or numerically by account number; but the financial institution must be able to access the transmittal of funds records readily by name or account number of the transmitter or recipient, as the case may be, and may do so through reference to some other record maintained by the financial institution.

(5) The following transmittals of funds are not subject to the requirements of this paragraph:

(i) A transmittal of funds where both the transmitter and the recipient of the funds are domestic brokers or dealers in securities;

(ii) A transmittal of funds where both the transmitter and recipient are the same domestic broker or dealer in securities or one is the wholly-owned domestic subsidiary of the other, or a bank;

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

(iv) Transmittals of funds where both the transmitter and the recipient are either a domestic broker or dealer in securities, the United States, any state or local government, or a federal, state, or local government agency or instrumentality.

Dated: August 19, 1993.

In concurrence:

By the Board of Governors of the Federal Reserve System.

William W. Wiles,  
Secretary.

Dated: August 11, 1993.

By the Department of the Treasury.

Ronald K. Noble,  
Assistant Secretary (Enforcement).

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

#### Proposed Amendment to the Bank Secrecy Act Regulations Relating to Transmittal Orders for Funds Transfers and Transmittals of Funds By Financial Institutions

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** In this notice Treasury proposes to amend the regulations that implement the Bank Secrecy Act (BSA) to require a bank or non-bank financial institution that acts as a transmitter's financial institution in a transmittal of funds to include certain information in the transmittal order when sending it to the receiving financial institution. A companion notice of proposed rulemaking (companion notice) also published elsewhere in this issue of the *Federal Register* proposes enhanced recordkeeping requirements relating to certain transmittals of funds by these same financial institutions.

As set forth in the companion notice, domestic financial institutions involved in a transmittal of funds will have to collect and retain certain information. The amount and type of information collected and retained will depend upon the financial institution's role in the particular transmittal, and whether or not the parties to the transactions have a deposit account or a loan with the financial institution. The reader is encouraged to review the companion notice before reviewing this notice in order to ensure a full understanding.

**DATES:** Comments are due on or before October 4, 1993.

**ADDRESSES:** Comments should be sent to Peter G. Djinis, Director, the Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue, NW., Washington DC 20220.

**FOR FURTHER INFORMATION CONTACT:** A. Carlos Correa, Chief, Regulations and Rulings, Office of Financial Enforcement, (202) 622-0400.

**SUPPLEMENTARY INFORMATION:** The Bank Secrecy Act (BSA), Public Law 91-508 (codified at 12 U.S.C. 1829b and 1951-59, and 31 U.S.C. 5311-28), enacted in 1970, authorizes the Secretary of Treasury to require financial institutions to file reports and keep records that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. The primary purpose of the BSA is to identify the source, volume and movement of money into and out of the country and through

domestic financial institutions. See H.R. Rep. No. 975, 91st Cong., 2nd. Sess., 11-13 (1970). The BSA was amended last year by the Annunzio-Wylie Anti-Money Laundering Act of 1992, title XV of the Housing and Community Development Act of 1992, Public Law 102-550 (the 1992 Amendment). Among other things, section 1517 of the 1992 Amendment authorizes the Secretary of the Treasury to require financial institutions to carry out anti-money laundering programs, including the development of internal policies, procedures and controls.

This notice of proposed rulemaking is the Department of the Treasury's first step toward full implementation of section 1517 of the 1992 Amendment, and it coincides with a separate but related Treasury initiative. As noted in testimony before the House Banking Committee on May 25, 1993, by Assistant Secretary Noble (Enforcement), Treasury would be, and is now conducting a comprehensive examination of its anti-money laundering programs, including the Bank Secrecy Act regulations. Comments received in response to this notice and the companion notice will be carefully considered as part of this comprehensive examination.

The 1992 Amendment also authorizes the Board of Governors of the Federal Reserve System and the Treasury to require financial institutions to retain records of domestic and international funds transfers and transmittals. The companion notice of proposed rulemaking published elsewhere in this issue of the *Federal Register* proposes enhanced recordkeeping requirements relating to certain transmittals of funds by financial institutions. In this notice, Treasury proposes that certain information required to be maintained by the companion notice of proposed rulemaking also be included in the transmittal order, at the time of transmittal, by whatever means including any funds transfer system (e.g., FedWire, SWIFT, and CHIPS) or similar system for transmittals of funds (e.g., Western Union and TELEX), to a financial institution.

The number of transmittals of funds completed daily is quite substantial. For example, the daily average number of funds transfers made over FedWire in 1992 was 270,000, with an average aggregate daily dollar amount of \$800 billion and a peak aggregate daily dollar amount of over \$1 trillion.

Proceeds from illegal activities may be processed through money laundering schemes involving domestic and/or international payment by transmittals of funds. Money laundering is a vital



component of drug trafficking and other criminal activity throughout the world, and federal law enforcement agencies believe that a significant volume of the money laundered involves transmittals of funds.

Such illegal activity has been documented in several recent money laundering operations conducted by federal law enforcement agencies. Among the operations which exposed large scale money laundering through transmittals of funds are Operations Green Ice, Polar Cap and C-Chase. The success of these and other law enforcement operations would have been greatly enhanced and facilitated had the transmittal orders involved in those cases included data identifying the transmitters and recipients of the transmittals of funds.

Recently the CHIPS and SWIFT funds transfer systems have adopted new formats/procedures that provide for the inclusion of the name and address of transmitters and recipients in transmittal orders. In a July 30, 1992, message to SWIFT participants, SWIFT recognized the fact that many countries are involved in initiatives to prevent the use of the banking system and other financial institutions for money laundering. In this broadcast SWIFT strongly encouraged its users to include in the existing field in the SWIFT message the transmitter's name and address or account number, and to complete the existing fields for the recipient's name, address and (where possible) account number. CHIPS issued a similar broadcast to its users dated September 14, 1992. In statements issued by the Federal Reserve Board (the Board), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS), these agencies encouraged financial institutions to include in payment orders complete information on the originator and beneficiary of such orders, including those sent through FedWire (using optional fields where possible), CHIPS, SWIFT, and other proprietary funds transfer systems. A similar statement was issued by the Federal Financial Institutions Examination Council (FFIEC). (See, FFIEC Statement dated March 11, 1993, 58 FR 14400, March 17, 1993.)

Because at present there are no designated fields in the FedWire format in which to include complete originator and beneficiary information, the Board encourages users of the FedWire system to use all available optional fields to include such information. The Federal

Reserve System is currently studying and expects to publish a Federal Register notice inviting comment on possible revisions to that format.

### Summary Description of the Proposed Rule

#### General Overview

The proposed rule is divided into three components:

(1) A requirement that a transmitter's financial institution include certain information in any transmittal order prior to sending it to a receiving financial institution;

(2) A requirement that any receiving financial institution acting as an intermediary bank forward, with its transmittal order, certain information it receives from a transmitter's financial institution as well as the identity of the transmitter's financial institution in the corresponding transmittal order; and,

(3) A requirement that any receiving financial institution that acts as an intermediary financial institution forward, with its transmittal order, certain information that it receives from a transmitter's financial institution, as well as the identity of the transmitter's financial institution in the corresponding transmittal order.

#### Definitions

This notice of proposed rulemaking uses terms proposed to be defined in the companion notice of proposed rulemaking, published elsewhere in today's Federal Register. The definitions of certain terms are intended to be identical to the same terms used for banks in Uniform Commercial Code (UCC) Article 4A: "beneficiary", "beneficiary's bank", "intermediary bank", "originator", "originator's bank", "payment order", and "receiving bank". Other definitions which refer to transactions by nonbank financial institutions are included in the companion notice, are intended to parallel the equivalent definitions in UCC Article 4A, and are also used in this proposed rule: "recipient" (which includes a "beneficiary"), "recipient's financial institution" (which includes a "beneficiary's bank"), "receiving financial institution" (which includes a "receiving bank"), "transmittal order" (which includes a "payment order"), "transmittal of funds" (which includes a "funds transfer"), and "transmitter" (which includes an "originator"). Other terms proposed to be defined in the companion notice and used in this Notice include: "intermediary bank" and "intermediary financial institution". The requirements of this proposed rule would apply equally to

banks and non-bank financial institutions engaging in transmittals of funds. Accordingly, in this notice we have used the broader, generic terms described above which apply to all financial institutions, and which are defined in the companion notice.

### Forwarding Information Received With a Transmittal Order

This proposed rule will ensure that certain information the transmitter's financial institution gathers when engaging in a transmittal of funds will travel with the corresponding transmittal order to any receiving financial institution. Receiving financial institutions include intermediary banks, intermediary financial institutions, and recipient's financial institutions. While the companion notice does not require the transmitter's financial institution to obtain specific information about the recipient from the transmitter, it is expected that a transmitter's financial institution will receive from the transmitter information identifying the recipient. Without this information, the recipient's financial institution would not be able to pay properly the proceeds of the transmittal of funds it receives. Thus, pursuant to this proposed rule, it is expected that:

(1) A transmitter's financial institution will obtain and record the information required by the Companion Notice and include certain prescribed portions of that information in the resulting transmittal order.

(2) Any receiving financial institution acting either as an intermediary bank or intermediary financial institution, upon acceptance of the transmittal order, will forward with its corresponding transmittal order all required information it receives.

The following examples serve to illustrate the operation of the rule proposed in this notice.

**Example #1: Domestic Transmittal of Funds—Non-bank to bank.** John Doe—transmitter.

Broker/Dealer—transmitter's financial institution/originator.

Bank A—originator's bank/intermediary financial institution.

FedWire—Federal Reserve Bank.

Bank B—recipient's financial institution/beneficiary's bank.

Sally Jones—recipient/beneficiary.

John Doe is sending \$7,000 to his aunt, Sally Jones, who has an account at Bank B. His aunt requests that he include payment instructions for her bank to call her when the money is received. John decides to send the money from his money market mutual fund at Broker/Dealer. John requests his account officer at Broker/ Dealer send the money to his aunt at Bank B. The account officer has John's name, address, and account number

on file, and requests John provide him with the same information for his aunt. John provides his aunt's name and address, but is unaware of her account number. The Broker/Dealer prepares a transmittal order to its Bank, Bank A, containing John's name, address, and account number, his aunt's name and address, the amount of the transmittal order, the execution date (today's date), the name of his aunt's bank (Bank B), and payment instructions asking Bank B to notify aunt Sally Jones when the money is received. The Broker/Dealer also includes payment instructions for its bank (Bank A) to use FedWire to make the payment.

Bank A, upon accepting the transmittal order from Broker/Dealer, prepares a corresponding transmittal order to send over FedWire that includes: John's name, address and account number; Sally's name and address; Bank B's identifying number (FedWire routing number); the amount of the transmittal; instructions to call Sally Jones upon receipt; and the name and address of Broker/Dealer. Bank A does not include the instruction to use FedWire to make the payment.

FedWire, upon acceptance of the transmittal order, prepares a corresponding transmittal order that it sends to Bank B that includes: John's name, address and account number; Sally Jones' name and address; Bank A's identifying (routing) number [not required by the rule, but included as part of a standard FedWire funds transfer]; Bank B's identifying (routing) number; the amount of the transmittal; instructions to call Sally upon receipt; and the name and address of Broker/Dealer.

Bank B, upon acceptance of the transmittal order, cross-references its customer identification system to determine Sally Jones' account number and telephone number, credits the funds to Sally Jones' account, and calls her to notify her of receipt of the funds.

**Example #2: International Transmittal of Funds—Swift to FedWire.**

Franz Mobius—transmitter.

First Black Forest Munich—transmitter's financial institution.

SWIFT

\*.—Effective point of the proposed rule.

First NY, Bronx—Receiving financial institution/intermediary bank.

FedWire—Federal Reserve Bank

Cowboy Trust—Dallas—Recipient's bank/beneficiary bank.

Tyler "Tex" Edwards—Recipient/beneficiary.

For his new "T-Bone Palace" restaurant, Franz has purchased a supply of Billy-Bob Bar-B-Q sauce and is paying a franchise fee for use of Tex's special recipe for ribs. In payment for the former, Franz must remit \$24,000 to Tex. In order for the franchise to be effective by the restaurant's opening date, Tex must receive the funds by close of business today. Tex has requested that Franz send the money to his account (#123) at Cowboy Trust in Dallas. Franz goes to his bank (First Black Forest Munich) and requests that the funds be sent immediately. First Black Forest Munich sends a SWIFT message to its NY correspondent (First NY Bronx). This message includes: Franz name,

address, and account number; Tex's name, address and account number; instructions to pay Tex's account (#123) at Cowboy Trust; the amount of the transmittal order; invoice information on the Bar-B-Q sauce that includes the invoice number and product description/quantity; and other information related to the franchise arrangement.

First NY Bronx, upon acceptance of the transmittal order via SWIFT, prepares a corresponding transmittal order to be sent via FedWire. Realizing that the information provided by SWIFT exceeds available space in the FedWire format, First NY Bronx, decides to truncate some of the invoice information to create additional space to accommodate transmitter and recipient information. First NY Bronx, decides not to truncate any franchise information as it is not in a position to know what information is critical. However, First NY Bronx decides to truncate the product description and quantity, transmitting only the invoice number and payment amount for this product (which is a portion of the total payment amount of the transmittal order). Even after truncating this information, all necessary transmittal information can not be accommodated by the FedWire format. Thus, First NY Bronx, includes in its transmittal order: The amount of the transmittal order; Franz name, address, and account number; Tex's name and account number (but, omits his address); the invoice number and payment amount; all of the franchise information; the name and address of the transmitter's financial institution; and the identifier of the recipient's bank (Cowboy Trust).

#### Proposed Effective Date

As discussed above, at present there are no designated fields in the FedWire format in which to include complete originator and beneficiary information. However, this information can be included in optional fields not being used for other required information. As previously noted, the Federal Reserve System is currently studying and expects to publish a Federal Register notice inviting comment on possible revisions to the FedWire format. Any such changes to the FedWire format and to other proprietary funds transmittal systems would require time to implement.

Recently the CHIPS and SWIFT funds transfer systems have adopted new formats/procedures that provide for the inclusion of the name and address of transmitters and recipients in payment orders. The Federal Reserve, SWIFT, CHIPS, and the banking regulatory agencies have encouraged, and Treasury joins in encouraging, users of FedWire, SWIFT, CHIPS and all other proprietary funds transfer systems to include such data in payment orders.

In view of the foregoing, Treasury proposes that the effective date of the requirements of this Notice of Proposed Rulemaking be twelve (12) months from

the date of publication of the final rule. In the interim, Treasury strongly encourages financial institutions to include in any transmittal order, to the extent possible, complete transmitter and recipient information when sending transmittal orders through FedWire, CHIPS, SWIFT and any other proprietary system.

#### Submission of Comments

Treasury requests comments from all interested persons concerning the proposed amendments. While comments on all aspects of the regulation are welcome, Treasury is particularly interested in receiving comments on: The extent to which financial institutions using funds transfers systems such as FedWire (which is owned and operated by the Federal Reserve Banks), the Clearinghouse Interbank Payments System (CHIPS), the Society for Worldwide Interbank Financial Telecommunications (SWIFT), Western Union and TELEX already include in transmittal orders the information proposed to be required; and, the additional burden measured in time and costs the proposed requirement will impose on financial institutions. All comments received before the closing date will be carefully considered. Only written and timely comments submitted to Treasury will receive consideration. Comments received after the closing date will be treated as suggestions for future action. The Treasury Department will not recognize as confidential any submitted materials or comments, including the name of any person submitting same. Any material not intended to be disclosed to the public should not be included in the comments. All comments will be available for public inspection during the hours that the Treasury Library is open to the public. The Treasury Library is located in room 5030, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Appointments must be made to view the comments. Persons wishing to view the comments submitted should contact the Office of Financial Enforcement at (202) 622-0400.

#### Executive Order 12291

This proposed rule, if adopted as a final rule, is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of \$100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. It will



not have any significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A regulatory impact analysis, therefore, is not required.

#### Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The collection of information requirements contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information and the burden estimate should be directed to the Office of Financial Enforcement at the address noted above or to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, DC 20503. The collections of information in this proposed regulation are authorized by 12 U.S.C. 1829b and 1951-1959 and 31 U.S.C. 5311-5328. The likely recordkeepers are financial institutions (as defined in 31 CFR 103.11(i)).

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

*Estimated total annual recordkeeping burden:* 9.9 million hours.

*Estimated average annual burden per respondent and/or recordkeeper:* 165.4 hours.

*Estimated annual frequency of responses:* Upon request.

#### Drafting Information

The principal author of this document is the Office of Financial Enforcement. However, other offices at the Department of the Treasury assisted in its development. Technical assistance was also provided by the staff of the Board of Governors of the Federal Reserve and the staff of the Money Laundering Section of the Department of Justice.

#### List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

#### Proposed Amendment

For the reasons set forth in the preamble, 31 CFR part 103 is proposed to be amended as set forth below:

#### PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

**Authority:** Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951-1959); and Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5328).

2. It is proposed to amend § 103.33 by adding new paragraph (h) to read as follows:

#### § 103.33 Records to be made and retained by financial institutions.

\* \* \* \* \*

(h) With respect to transmittals of funds:

(1)(i) A transmitter's financial institution shall include in any transmittal order, at the time it is sent to a receiving financial institution, the following information:

(A) The name and address of the transmitter of the transmittal order;

(B) The amount of the transmittal of funds;

(C) The execution date of the transmittal order;

(D) The identity of the recipient's financial institution; and

(E) Either the name and address or the account number of the recipient of the transmittal order, if received with the transmittal order.

(ii) Any receiving financial institution that acts as an intermediary bank, if it accepts a transmittal order, shall include in a corresponding transmittal order at the time it is sent to the next receiving financial institution, the following information, if received from the sender:

(A) The name and address of the transmitter of the transmittal order;

(B) The amount of the transmittal of funds;

(C) The execution date of the transmittal order;

(D) The identity of the recipient's financial institution;

(E) Either the name and address or the account number of the recipient of the transmittal order, if received with the transmittal order; and

(F) Either the name and address or numerical identifier of the transmitter's financial institution.

(iii) Any receiving financial institution that acts as an intermediary financial institution, if it accepts a transmittal order, shall include in a

corresponding transmittal order at the time it is sent to the next receiving financial institution, the following information, if received from the sender:

(A) The name and address of the transmitter of the transmittal order;

(B) The amount of the transmittal of funds;

(C) The execution date of the transmittal order;

(D) The identity of the recipient's financial institution;

(E) Either the name and address or the account number of the recipient of the transmittal order, if received with the transmittal order; and

(F) Either the name and address or numerical identifier of the transmitter's financial institution.

Dated: August 11, 1993.

Ronald K. Noble,

Assistant Secretary (Enforcement).

[FR Doc. 93-20871 Filed 8-30-93; 8:45 am]

BILLING CODE 4810-25-P

#### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 219

[Regulation S; Docket No. R-0807]

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

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is requesting comments on enhanced recordkeeping requirements relating to certain wire transfers by financial institutions. These proposed recordkeeping requirements are being promulgated jointly by the Board and the Department of Treasury (Treasury). A companion notice of proposed rulemaking, published elsewhere in this issue of the *Federal Register* by Treasury and the Board (joint notice) sets forth the substantive provisions of the proposed recordkeeping requirements. This notice sets forth a proposed regulation for codification at 12 CFR part 219, subpart B, which extensively cross-references the substantive provisions set forth in the joint notice.

Under the joint notice, each domestic financial institution involved in either a domestic or international wire transfer will have to collect and retain certain information. The amount and type of information collected and retained will depend upon the nature of the financial



institution, its role in the particular wire transfer, and the relationship of the parties to the transaction with the financial institution. The recordkeeping requirements applicable to international wire transfers are required by statute to be effective before January 1, 1994. For ease of implementation, Treasury and the Board propose to make the proposed recordkeeping requirements applicable to both domestic and international wire transfers effective on December 31, 1993.

**DATES:** Comments are due on or before October 4, 1993.

**ADDRESSES:** Each comment on the provisions of this proposed notice (as supplemented by the joint notice) should be sent separately to both the Treasury and the Board at the following addresses:

**Treasury:** Mr. Peter Djinis, Director, Office of Financial Enforcement, Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue, NW, Washington, DC 20220;

**Board:** Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW, Washington, DC 20551. Comments addressed to Mr. Wiles, Secretary, Board of Governors of the Federal Reserve System, should refer to Docket No. R-0807. Comments may also be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW.

**Inspection of Comments:** Comments may be inspected at the Federal Reserve Board, 20th and Constitution Avenue, NW, Washington, DC, in room B-1122 between 9 a.m. and 5 p.m., as provided in part 261 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8. Comments may also be inspected at the Department of Treasury between 10 a.m. and 4 p.m. in the Treasury Library, which is located in room 5030, 1500 Pennsylvania Avenue, NW, Washington, DC. Persons wishing to inspect the comments submitted should request an appointment at the Treasury Library at (202) 622-0990.

**FOR FURTHER INFORMATION CONTACT:**

**Treasury:** A. Carlos Correa, Assistant Director, Rules and Regulations Section, Office of Financial Enforcement, Department of the Treasury, (202) 622-0400.

**Board:** Gayle Brett, Manager, FedWire, Division of Reserve Bank Operations and Payment Systems (202) 452-2934; Oliver Ireland, Associate

General Counsel (202) 452-3625, or Elaine M. Boutilier, Senior Attorney, Legal Division, (202) 452-2418, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202) 452-3544.

**SUPPLEMENTARY INFORMATION:** The statute generally referred to as the Bank Secrecy Act (Pub. L. 91-508, codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5328) authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax and regulatory matters. The primary purpose of the Bank Secrecy Act is to identify the source, volume and movement of funds into and out of the country and through domestic financial institutions. The Bank Secrecy Act was amended last year in the Annunzio-Wylie Anti-Money Laundering Act of 1992, Title XV of the Housing and Community Development Act of 1992, Public Law 102-550 (referred to hereafter as the 1992 Amendment) to specifically authorize the Treasury and the Board jointly to prescribe regulations to require maintenance of records regarding domestic and international funds transfers.

The 1992 Amendment authorizes the Board and the Treasury to promulgate recordkeeping requirements for domestic wire transfers by insured depository institutions whenever the agencies determine that such records have a high degree of usefulness in criminal tax or regulatory investigations or proceedings. In addition, the 1992 Amendment requires the Treasury and the Board to issue final regulations with regard to the international transactions to be effective before January 1, 1994. The recordkeeping requirements for international transactions will apply to financial institutions as defined in 31 CFR 103.11(i), which include insured depository institutions and brokers and dealers in securities, as well as businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments (collectively referred to as check cashing and money transmitting businesses). In prescribing these required regulations, the Board and the Treasury must take into consideration the usefulness of these records in criminal, tax, or regulatory investigations or proceedings and the effect the recordkeeping will have on the cost and efficiency of the payment

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

The number of wire transfers completed daily is substantial. For example, the daily average number of wire transfers made over FedWire in 1992 was 270,000, with average aggregate daily dollar amount of \$800 billion and a peak aggregate daily dollar amount of over \$1 trillion.

Money laundering is a vital component of drug trafficking and other criminal activity throughout the world, and Federal law enforcement agencies believe that a significant amount of the money laundered involves wire transfers. Proceeds from illegal activities may be processed through money laundering schemes involving domestic and/or international payments by wire transfers. Such activity has been documented in several recent investigations conducted by Treasury and other Federal law enforcement agencies. The Board and the Treasury believe that the records to be retained under this proposed rulemaking will be useful in tracing the proceeds of illegal activities and will assist in the identification and prosecution of individuals involved in such illegal activities. Accordingly, Treasury and the Board believe that maintenance of these records will have a high degree of usefulness in criminal, tax, or regulatory investigations of money laundering operations. Further, the Treasury and the Board believe that these recordkeeping requirements will not have a significant adverse impact on the cost or the efficiency of the payments system.

**Codification of the Proposed Rule**

To minimize potential confusion by affected entities regarding the scope of this proposed joint rule and its interaction with other anti-money laundering regulations, the substantive requirements of the proposed rule will be codified with other Bank Secrecy Act regulations, as part of Treasury's regulations in 31 CFR part 103. Because the Board is required to prescribe these regulations jointly with Treasury, the Board is proposing to add a new subpart B to 12 CFR part 219, which will cross-reference the jointly prescribed requirements in 31 CFR part 103. The current text of 12 CFR part 219, concerning reimbursement to financial institutions for assembling and providing financial records pursuant to the Right to Financial Privacy Act, will

become subpart A of 12 CFR part 219. (The Board expects to revise and update this newly designated subpart A in the near future.)

#### Summary Description of the Revised Proposed Rule

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

#### Submission of Comments

Comments on all aspects of the proposed regulation are welcome. The Treasury and the Board specifically request comment on the usefulness of the records covered by the proposed rule for law enforcement purposes and the effects that the proposed rule might have on the cost and efficiency of the payment system. All comments received before the closing date will be carefully considered. Oral comments must be reduced to writing and submitted to the Board and/or Treasury to receive consideration. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. Neither the Board nor Treasury will recognize as confidential any materials or comments, including the name of any person submitting comments. Any material not intended to be disclosed to the public should not be included in the comments.

#### Initial Regulatory Flexibility Analysis

As required by 5 U.S.C. 603(b), a "description of the reasons why action by the agency is being considered" and a "succinct statement of the objectives of, and legal basis for, the proposed rule" are found elsewhere in this preamble.

The Board and the Treasury propose that the requirements in this rule be applicable to all financial institutions subject to the Bank Secrecy Act, as implemented, regardless of their size. An exemption for small entities would not be appropriate because it would permit money laundering operations to evade the recordkeeping process by using small financial institutions. This would significantly diminish the usefulness of these records for criminal, tax or regulatory investigations.

The small entities that will be affected by this proposed rule include small banks and many check cashing and money transmitting businesses. In order to minimize the economic impact on small entities, the proposed rule would allow financial institutions that send or receive transmittal orders for account holders to use existing records to satisfy some of the recordkeeping requirements. The Board and the Treasury do not believe that the proposed rule would impose reporting or recordkeeping burdens on small entities that require specialized professional skills not available to them.

#### List of Subjects in 12 CFR Part 219

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

For the reasons set out in the preamble, 12 CFR part 219 is proposed to be amended as set forth below.

#### PART 219—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS

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

#### Subpart A—Reimbursement to Financial Institutions for Providing Financial Records

##### §§ 219.1 through 219.7 [Designated as Subpart A]

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

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

Authority: 12 U.S.C. 3415.

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

##### § 219.1 Authority, purpose and scope.

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

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

##### § 219.2 Definitions.

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

\* \* \* \* \*

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

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

Sec.

219.21 Authority, purpose and scope.

219.22 Definitions.

219.23 Recordkeeping and reporting requirements.

219.24. Retention period.

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

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

##### § 219.21 Authority, purpose and scope.

This subpart of Regulation S (12 CFR part 219) is issued by the Board under the authority of section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b), as amended by the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Pub.L. 102-550, title XV; 106 Stat. 3672, 4044), which authorizes the Board and the Secretary of the Treasury jointly to prescribe recordkeeping and reporting requirements for domestic wire transfers by insured depository institutions; and which also requires the Board and Treasury jointly to prescribe recordkeeping and reporting requirements for international wire transfers by insured depository institutions and by nonbank financial institutions. The definitions and recordkeeping and reporting requirements referenced in this subpart are jointly promulgated and administered by the Board and the Treasury and are codified in 31 CFR

103.11 and 103.33 (e), (f) and (g). Such recordkeeping and reporting requirements will assist in the prosecution of money laundering activities and are determined to have a high degree of usefulness in criminal, tax or regulatory investigations or proceedings.

#### § 219.22 Definitions.

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

*Accept.*  
*Beneficiary.*  
*Beneficiary's bank.*  
*Execution date.*  
*Funds transfer.*  
*Intermediary bank.*  
*Intermediary financial institution.*  
*Originator.*  
*Originator's bank.*  
*Payment date.*  
*Payment order.*  
*Receiving bank.*  
*Receiving financial institution.*  
*Recipient.*  
*Recipient's financial institution.*  
*Sender.*  
*Transmittal of funds.*  
*Transmittal order.*  
*Transmittor.*  
*Transmittor's financial institution.*

#### § 219.23 Recordkeeping and reporting requirements.

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

(b) *International transmittals of funds by financial institutions other than insured depository institutions.* The Board and the Treasury are jointly required to promulgate reporting and recordkeeping requirements for international transmittals of funds by financial institutions, including brokers and dealers in securities, and businesses that issue or redeem money orders, travelers' checks or other similar instruments. In prescribing these requirements, the Board and the Treasury take into account the

usefulness of these records in criminal, tax, or regulatory investigations or proceedings and the effect the recordkeeping will have on the cost and efficiency of the payment system. These regulations are codified at 31 CFR 103.33 (f) and (g). For the purposes of this subpart, the provisions of 31 CFR 103.33 (f) and (g) apply only to international transmittals of funds by financial institutions other than insured depository institutions.

#### § 219.24 Retention period.

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

By order of the Board of Governors of the Federal Reserve System, August 19, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-20841 Filed 8-30-93; 8:45 am]

BILLING CODE 6210-01-P



**FEDERAL RESERVE BANK OF DALLAS**

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