



FEDERAL RESERVE BANK
OF DALLAS

HELEN E. HOLCOMB
FIRST VICE PRESIDENT AND
CHIEF OPERATING OFFICER

August 28, 1996

DALLAS, TEXAS
75265-5906

Notice 96-85

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

SUBJECT

**Proposed Amendments to Regulation S
(Reimbursement to Financial Institutions for Assembling
or Providing Financial Records)**

DETAILS

The Board of Governors of the Federal Reserve System is proposing an amendment to Subpart B of Regulation S (Reimbursement to Financial Institutions for Assembling or Providing Financial Records). Subpart B cross-references the substantive provisions of a joint rule adopted by the Board and the Department of the Treasury relating to the recordkeeping requirements for funds transfers and transmittals of funds. The proposed amendment would clarify that Regulation S does not apply to any person or transaction or class of persons or transactions that the Treasury has exempted from the joint rule.

The Board must receive comments by September 20, 1996. Please address comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0934.

ATTACHMENT

A copy of the Board's notice (Federal Reserve System Docket No. R-0934) is attached.

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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,

Helen E. Holcomb

AUG 15 1996

FEDERAL RESERVE SYSTEM

12 CFR Part 219

[Regulation S; Docket No. R-0934]

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

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing an amendment to subpart B of its Regulation S.

Subpart B cross-references the substantive provisions of a joint rule adopted by the Board and the Department of the Treasury relating to the recordkeeping requirements for funds transfers and transmittals of funds. The proposed amendment would clarify that Regulation S does not apply to any person or transaction or class of persons or transactions that the Treasury has exempted from the joint rule.

DATES: Comments must be submitted on or before [insert date 30 days after publication in the Federal Register].

ADDRESSES: Comments, which should refer to Docket No. R-0934, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may 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, N.W. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Louise Roseman, Associate Director, (202/452-2789), Division of Reserve Bank Operations and Payment Systems; Oliver Ireland, Associate General Counsel (202/452-3625), or Elaine Boutilier, Senior Counsel (202/ 452-2418); Legal Division. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act,^{1/} as amended by the Annunzio-Wylie Anti-Money-Laundering Act of 1992,^{2/} authorizes, and in some cases requires, the Secretary of the Treasury^{3/} and the Board to prescribe recordkeeping rules for domestic and international funds transfers and money transmittals. The Board and the Treasury issued a joint rule,^{4/} effective May 28, 1996, that sets forth recordkeeping and reporting requirements for funds transfers and money transmittals by banks and nonbank financial institutions. These requirements are intended to assist in the investigation and prosecution of money-laundering activities. In promulgating these rules, the Board and the Treasury determined that the requirements would have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The substance of the joint rule is

^{1/}Pub. L. 91-508, codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5329.

^{2/}Pub. L. 102-550, title XV.

^{3/}The Secretary of the Treasury has delegated the authority to administer the Bank Secrecy Act to the Director of the Financial Crimes Enforcement Network.

^{4/}60 FR 231 (January 3, 1995), as amended by 60 FR 44144 (August 24, 1995) and 61 FR 14382 (April 1, 1996).

codified with the Treasury's Bank Secrecy Act regulations in 31 CFR part 103.^{5/} At the same time, the Board added subpart B to its Regulation S (12 CFR part 219) to cross-reference the joint rule.

Under its general Bank Secrecy Act regulations, the Treasury may make exceptions or grant exemptions from the requirements in 31 CFR part 103 for particular persons or classes of persons or particular transactions or classes of transactions.^{6/} The Board has no similar exemptive provisions in Regulation S. The Board recognizes the possibility that the Treasury could grant an exception or exemption for a person or transaction subject to the joint rule. Therefore, to avoid confusion and to ensure consistent application of the joint rule and subpart B of Regulation S, the Board requests comment on an amendment to Regulation S to clarify that subpart B does not apply to a particular person or class of persons or particular transaction or class of transactions to the extent that the Treasury has determined that the joint rule does not apply to that person, transaction, or class of persons or transactions.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above.

^{5/}31 CFR 103.11 and 103.33 (e) and (f).

^{6/}See 31 CFR § 103.45.

The proposed rule requires no additional reporting or recordkeeping requirements and does not overlap with other federal rules. Rather, the proposal clarifies the relationship between the Regulation S and the joint rule. Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all institutions subject to the regulation, regardless of size, but would not result in any increased compliance or other burden for affected institutions, and may result in reduced compliance burden to the extent that the Treasury exempts persons or transactions that would otherwise be subject to Regulation S.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

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 (REGULATION S)

* * * * *

Subpart B -- Recordkeeping and Reporting Requirements for Funds Transfers and Transmittals of Funds

1. The authority citation for subpart B is revised to read as follows:

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

2. In § 219.21, the first word of the last sentence is revised to read "These" and a new sentence is added immediately preceding the last sentence to read as follows:

§ 219.21. Authority, purpose, and scope.

* * * This subpart does not apply to a particular person or class of persons or a particular transaction or class of transactions to the extent that the Treasury has determined that 31 CFR 103.33(e) and (f) do not apply to that person, transaction, or class of persons or transactions. * * *

By order of the Board of Governors of the Federal Reserve System, August 15,
1996.

(Signed) Jennifer J. Johnson
Jennifer J. Johnson
Deputy Secretary of the Board
BILLING CODE 6210-01-P

