

FEDERAL RESERVE BANK  
OF NEW YORK

ATCIR No 8374  
June 21, 1978

FINANCIAL RECORDKEEPING BY BANKS  
Identity of Persons Who Purchase or Redeem Certificates of Deposit

To All State Member Banks  
in the Second Federal Reserve District:

The Department of the Treasury recently issued an amendment to its Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulation that requires banks and other financial institutions to maintain records of the identities of persons who buy or redeem certificates of deposit, effective June 1, 1978.

Printed below is the text of the amendment. Any questions regarding this matter may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,  
*President.*

[4810-25]

Title 31—Money and Finance:  
Treasury

CHAPTER I—MONETARY OFFICES,  
DEPARTMENT OF THE TREASURY

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

Recordkeeping Required

AGENCY: Department of the Treas-  
ury.

ACTION: Final rule.

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

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION  
CONTACT:

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

SUPPLEMENTARY INFORMATION:  
The Treasury Department published a

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

DISCUSSION OF COMMENTS

A total of 19 letters have been re-  
ceived. They include 10 from banks  
and savings and loan associations, 3  
from industry associations, 1 from a  
member of the general public, and 5  
from State and Federal financial regu-  
latory agencies. While a majority of  
the responses are in substantial agree-  
ment with the proposal, some ex-  
pressed general opposition and many  
contain technical suggestions for im-  
proving the language.

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

1. In the opinion of this group of re-  
spondents, the amendment would be  
ineffective in impeding the conceal-  
ment of financial transactions relating

to illegal activities. Although the pro-  
posal would require a record of the  
identities of the purchaser and the  
person presenting a certificate for re-  
demption, there is no provision for re-  
cording the identity of any other  
person who may purchase it.

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

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

*Response:* It is our understanding  
that most financial institutions cur-  
rently create records which would sat-  
isfy the requirements of the proposal.  
It is recognized, however, that some  
institutions may not be retaining  
those records as long as the amend-  
ment would require. Nevertheless, in  
our opinion, the added cost to some in-  
stitutions, of longer record retention is  
counter-balanced by the value of the  
requirement to law enforcement activi-  
ties.

3. Adequate information is presently  
maintained for capital notes and regis-  
tered certificates of deposit.

*Response:* It is the Department's  
belief that, in most instances, financial  
institutions are maintaining adequate  
records. The proposal would merely



ensure that the relatively small number which have not been keeping these records will do so in the future.

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

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

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

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

#### TEXT OF AMENDMENT

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

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

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

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

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

\$10; (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than \$10; and (x) non-resident aliens who are not engaged in a trade or business in the United States. In instances described in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year is \$10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

(b) \* \* \*

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

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

Dated: May 9, 1978.

BETTE B. ANDERSON,  
*Under Secretary of the Treasury.*  
[FR Doc. 78-13623 Filed 5-18-78; 8:45 am]