

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **10655**
September 1, 1993]

**ENHANCED RECORDKEEPING REQUIREMENTS FOR
CERTAIN WIRE TRANSFERS**

- Proposed Amendments to Regulation S**
- Proposed Amendments to the Treasury's
Bank Secrecy Act Regulations**

Comments Invited by October 4, 1993

*To All Depository Institutions, Bank Holding Companies and Broker/Dealers
in the Second Federal Reserve District, and Others Concerned:*

The following statement has been issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has requested public comment on proposed amendments to Regulation S (Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain 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). Comment is requested by October 4, 1993.

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; and
- requirements for securities broker/dealers, which 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.

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.

Enclosed — for depository institutions, bank holding companies and broker/dealers in this District — is the text of 1) the Board of Governors' proposed amendments to its Regulation S, and 2) a joint proposal by the Board of Governors and the Department of the Treasury amending the Bank Secrecy Act Regulations relating to recordkeeping for funds transfers and transmittals of funds by financial institutions, both which have been submitted to the *Federal Register*.

Comments on both proposals should be submitted by October 4, and should be sent separately to the Board and to the Treasury Department, as specified in the notices, or to Carol W. Barrett, Vice President, Funds and Securities Group.

WILLIAM J. McDONOUGH,
President.

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

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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, Pub. L. 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.
2. Sections 219.1 through 219.7 are designated as Subpart A, and a new Subpart A heading is added to read as follows:

Subpart A -- Reimbursement to Financial Institutions for Providing Financial Records

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 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.

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

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

§ 219.21 Authority, purpose and scope.

This subpart of Regulation S 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), 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.

(Signed) William W. Wiles

William W. Wiles
Secretary of the Board

FEDERAL RESERVE SYSTEM

12 CFR PART 219

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: 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.

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 § 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, Pub. L. 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 include 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. 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 renotice 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.

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 section 103.29 of this part," that appear in section 103.11(g), have been deleted to allow the term "deposit account" to be used in the amendments to section 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 section 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 transmittor; (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 transmittor 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 transmittor 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 and
Banking, Currency, Foreign Banking, Investigations, Law
Enforcement, Reporting and Recordkeeping Requirements, Taxes.

AMENDMENT

For the reasons set forth in the preamble, 31 CFR Part 103 is
amended as set forth below:

PART 103 -- FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 is amended 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 § 103.11 by deleting the words, "For purposes of § 103.29 of this part," in paragraph (g); and by redesignating paragraphs (a) and (b) as paragraphs (b) and (c); redesignating paragraphs (c) through (h) as paragraphs (f) through (k); redesignating paragraphs (i) through (k) as paragraphs (m) through (o); redesignating (l) and (m) as paragraphs (s) and (t); redesignating paragraph (n) as paragraph (y); redesignating paragraph (o) as paragraph (dd); redesignating paragraphs (p) through (r) as paragraphs (ff) through (hh); redesignating paragraphs (s) through (u) as paragraphs (mm) through paragraphs (oo); 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) each to read as follows:

Section 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.

* * * * *

(1) 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., as amended from time to time), 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 transmitter'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 transmittor'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 transmittor'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., as amended from time to time, are excluded from this definition. The term transmittal of funds includes a funds transfer.

(jj) Transmittal order. 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. The term transmittal order includes a payment order.

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

(11) Transmittor's financial institution. The receiving financial institution to which the transmittal order of the transmittor is issued if the transmittor is not a financial institution, or the transmittor if the transmittor is a financial institution. The term transmittor's financial institution includes an originator's bank.

* * * * *

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

103.25 Report 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), each 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., drivers 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 drivers 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., drivers 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 drivers 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 transmittor, a transmittor's financial institution, other than a bank or a broker or dealer in securities that has an account for the transmittor, shall verify the transmittor'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; 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.

If the transmitter 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.

(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 transmittor 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 transmittor's financial institution must retain under paragraph (g)(1) of this section shall be readily retrievable by the transmittor's financial institution by reference to either the name or

account number of the transmittor. 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 transmittor 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 transmittor and the recipient of the funds are domestic brokers or dealers in securities;

(ii) a transmittal of funds where both the transmittor 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 transmittor and recipient are the same person and the transmittor'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:

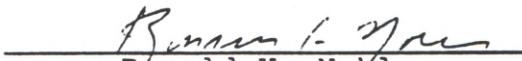
By the Board of Governors of the Federal Reserve System.



William W. Wiles
Secretary

Dated: AUG 11 1993

By the Department of the Treasury.



Ronald K. Noble
Assistant Secretary
(Enforcement)