

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 21**

[Docket No. 03–08]

RIN 1557–AC06

FEDERAL RESERVE SYSTEM**12 CFR Parts 208 and 211**

[Docket No. R–1127]

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 326****DEPARTMENT OF THE TREASURY****Office of Thrift Supervision****12 CFR Part 563**

[Docket No. 2003–16]

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 748**

RIN 3133

DEPARTMENT OF THE TREASURY**31 CFR Part 103**

RIN 1506–AA31

Customer Identification Programs for Banks, Savings Associations, Credit Unions and Certain Non-Federally Regulated Banks

AGENCIES: The Financial Crimes Enforcement Network, Treasury; Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision, Treasury; National Credit Union Administration.

ACTION: Joint final rule.

SUMMARY: The Department of the Treasury, through the Financial Crimes Enforcement Network (FinCEN), together with the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) (collectively, the Agencies), have jointly adopted a final rule to implement section 326 of the Uniting and Strengthening America by Providing Appropriate Tools

Required To Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (the Act). Section 326 requires the Secretary of the Treasury (Secretary) to jointly prescribe with each of the Agencies, the Securities and Exchange Commission (SEC), and the Commodity Futures Trading Commission (CFTC), a regulation that, at a minimum, requires financial institutions to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable; maintain records of the information used to verify the person's identity; and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency. This final regulation applies to banks, savings associations, credit unions, private banks, and trust companies.

DATES: *Effective Date:* This rule is effective June 9, 2003.

Compliance Date: Each bank must comply with this final rule by October 1, 2003.

FOR FURTHER INFORMATION CONTACT:

OCC: Office of the Chief Counsel at (202) 874–3295.

Board: Enforcement and Special Investigations Sections at (202) 452–5235, (202) 728–5829, or (202) 452–2961.

FDIC: Special Activities Section, Division of Supervision and Consumer Protection, and Legal Division at (202) 898–3671.

OTS: Compliance Policy Division at (202) 906–6012.

NCUA: Office of General Counsel at (703) 518–6540; or Office of Examination and Insurance at (703) 518–6360.

Treasury: Office of the Chief Counsel (FinCEN) at (703) 905–3590; Office of the General Counsel (Treasury) at (202) 622–1927; or the Office of the Assistant General Counsel for Banking & Finance (Treasury) at (202) 622–0480.

SUPPLEMENTARY INFORMATION:**I. Background****A. Section 326 of the USA PATRIOT Act**

On October 26, 2001, President Bush signed into law the USA PATRIOT Act, Pub. L. 107–56. Title III of the Act, captioned “International Money Laundering Abatement and Anti-terrorist Financing Act of 2001,” adds several new provisions to the Bank Secrecy Act (BSA), 31 U.S.C. 5311 *et seq.* These provisions are intended to facilitate the prevention, detection, and prosecution of international money laundering and the financing of terrorism.

Section 326 of the Act adds a new subsection (l) to 31 U.S.C. 5318 of the BSA that requires the Secretary to prescribe regulations “setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.”

Section 326 applies to all “financial institutions.” This term is defined very broadly in the BSA to encompass a variety of entities, including commercial banks, agencies and branches of foreign banks in the United States, thrifts, credit unions, private banks, trust companies, investment companies, brokers and dealers in securities, futures commission merchants, insurance companies, travel agents, pawnbrokers, dealers in precious metals, check-cashers, casinos, and telegraph companies, among many others. See 31 U.S.C. 5312(a)(2) and (c)(1)(A).

For any financial institution engaged in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (section 4(k) institutions), the Secretary is required to prescribe the regulations issued under section 326 jointly with each of the Agencies, the SEC, and the CFTC (the Federal functional regulators).

Section 326 of the Act provides that the regulations must require, at a minimum, financial institutions to implement reasonable procedures for (1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information; and (3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency. In prescribing these regulations, the Secretary is directed to take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

B. Overview of Comments Received

On July 23, 2002, Treasury and the Agencies published a joint notice of proposed rulemaking in the **Federal Register** (67 FR 48290) applicable to (a) any financial institution defined as a “bank” in 31 CFR 103.11(c) ¹ and

¹ This definition includes banks, savings associations, credit unions, Edge Act and Agreement corporations, and branches and agencies of foreign banks.