

gathered by most banks in the account opening process and is required by other sections of 31 CFR part 103. Of course, based upon an assessment of the risks described above, a bank may require a customer to provide additional information to establish the customer's identity.

Treasury and the Agencies acknowledge that imposing this requirement on banks that offer credit card accounts is likely to alter the manner in which they do business by requiring them to gather additional information beyond that which they currently obtain directly from a customer who opens an account at the point of sale or by telephone. Treasury and the Agencies are mindful of the legislative history of section 326, which indicates that Congress expected the regulations implementing this section to be appropriately tailored for accounts opened in situations where the account holder is not physically present at the financial institution and that the regulations should not impose requirements that are burdensome, prohibitively expensive, or impractical.²⁴

Therefore, Treasury and the Agencies have included an exception in the final rule for credit card accounts only, which would allow a bank broader latitude to obtain some information from the customer opening a credit card account, and the remaining information from a third party source, such as a credit reporting agency, prior to extending credit to a customer. Treasury and the Agencies recognize that these practices have produced an efficient and effective means of extending credit with little risk that the lender does not know the identity of the borrower.

Treasury and the Agencies also received comments on the advisability of requiring banks to collect the specific identifying information (name, date of birth, address, and identification number), as would have been required under the proposed rule. With respect to obtaining the customer's name, one commenter recommended that based on Texas law and banks' experience, a bank should be required to obtain the name under which the customer is doing business and the customer's legal name. The final rule continues to require that the bank obtain the customer's name, meaning a legal name that can be verified. As noted above, this is a minimum requirement, and a bank may also need to obtain the name under which a person does business in order to establish a reasonable belief it knows the true identity of the customer.

One trade association suggested that banks be permitted to make a risk-based determination before requiring a customer to provide date of birth because many customers would prefer not to share this information. One commenter stated that date of birth is not an important identifying characteristic and should be deleted. Another commenter stated that credit card issuers do not request this information because it can raise fair lending issues. Finally, a few commenters noted that standardized mortgage applications require age rather than date of birth and would have to be altered.

The final rule provides that a bank must obtain the date of birth for a customer who is an individual. Treasury and the Agencies believe that date of birth is an important identifying characteristic and can be used to provide a bank or law enforcement with an additional means to distinguish between customers with identical names. However, the required collection and retention of information about a customer's date of birth does not relieve the bank from its obligations to comply with anti-discrimination laws or regulations, such as the prohibition in the Equal Credit Opportunity Act against discrimination in any aspect of a credit transaction on the basis of age or other prohibited classification. Banks collecting date of birth from individual customers should be able to take reasonable measures to convert this information into age for purposes of the forms used in the secondary mortgage market given the delayed compliance date for the final rule.

Many commenters criticized the requirement that a bank obtain both the customer's physical and mailing address, if different. Most commenters urged Treasury and the Agencies to eliminate the requirement that the customer provide a physical address. Some of these commenters stated that this requirement could interfere with the ability of certain segments of the population to obtain a bank account, such as members of the military, persons who reside in mobile homes with no fixed address, and truck drivers who do not have a physical address. Banks that offer credit card accounts and card issuers stated that the address requirement would be extremely burdensome because they would have to change the manner in which they do business, and in some cases, credit card banks currently do not have the capacity to collect both addresses. Some of these commenters stated that new credit card customers are reluctant to give more than one address and, therefore, it

would be difficult to obtain this information from customers. A trade association representing credit card banks asserted that customers may have a legitimate reason for handling correspondence through post office boxes and should not have to provide a physical address. This commenter asserted that requiring the customer to provide a physical address will discourage the provision of financial services to the unbanked and will prevent a victim of identity theft from using an alternative to an unsecured home mailbox. Another commenter noted that the physical address of a customer's principal place of business may not be relevant if the bank is working with a customer's local office. This commenter recommended that the rule simply permit the bank to obtain the customer's street address. Credit card banks and issuers urged Treasury and the Agencies to make the requirement that a bank obtain the customer's physical address optional.

Section 326 of the Act requires Treasury and the Agencies to prescribe regulations that require financial institutions to implement "reasonable procedures." Accordingly, under the final rule, a bank will not be required to obtain more than a single address for a customer. Nonetheless, Treasury and the Agencies believe that the identification, verification, and recordkeeping provisions of the Act, taken together, should provide appropriate resources for law enforcement agencies to investigate money laundering and terrorist financing. The final rule therefore provides that a bank generally must obtain a residential or business street address for a customer who is an individual because Treasury and the Agencies have determined that law enforcement agencies should be able to contact an individual customer at a physical location, rather than solely through a mailing address. Treasury and the Agencies recognize that this provision may be impracticable for members of the military who cannot readily provide a physical address, and other individuals who do not have a physical address but who reliably can be contacted. Accordingly, the final rule provides an exception under these circumstances that allows a bank to obtain an Army Post Office or Fleet Post Office box number, or the residential or business street address of next of kin or of another contact individual. For a customer other than an individual, such as a corporation, partnership, or trust, the bank may obtain the address of the principal place of business, local office,

²⁴ H.R. Rep. No. 107-250, pt. 1, at 63 (2001).