

or other physical location of the customer. Of course, a bank is free to obtain additional addresses from the customer, such as the customer's mailing address, to meet its own or its customer's business needs.

The proposal required that banks obtain an identification number from customers. For U.S. persons, a bank would have been required to obtain a U.S. taxpayer identification number. For non-U.S. persons, a bank would have been required to obtain a number from various alternative forms of government-issued identification.

One commenter stated that this requirement would not be burdensome. Commenters representing certain consumer advocacy groups commended Treasury and the Agencies for providing banks with the discretion to accept alternative forms of identifying information from non-U.S. citizens. These commenters stated that this position would assist low-income immigrants in gaining financial stability. By contrast, some commenters stated that the final rule should not permit a bank to open an account for a customer using only a foreign identification number when the customer provides a U.S. address. Other commenters asked for guidance on whether a bank is permitted to accept a number from the identification document issued by a foreign government. A few commenters urged the government to require a national identification document for all individuals.

Other commenters, primarily credit card banks, stated that the requirement that a bank obtain a U.S. taxpayer identification number from U.S. persons would create considerable hardship. They stated that new credit card customers are reluctant to give out their social security numbers, especially over the telephone. They urged that banks be given the discretion to collect identifying information, other than social security numbers, when appropriate in light of consumer privacy and security concerns. In the alternative, they recommended that banks be permitted to obtain a U.S. taxpayer identification number for U.S. persons from a trusted third party source, such as a credit reporting agency.

Some commenters questioned what number to use for accounts opened in the name of a bowling league or class reunion, or to accept donations for a special cause. Other commenters questioned what number could be obtained from foreign businesses and enterprises that have no taxpayer

identification number or other government-issued documentation.

The final rule provides that a bank must obtain an "identification number" from every customer. As discussed above, under the definition of "customer," the final rule permits a bank to obtain the identification number of the individual who opens an account in the name of an individual who lacks legal capacity, such as a minor, or a civic group, such as a bowling league.

After reviewing the comments, Treasury and the Agencies have determined that requiring a bank to obtain a customer's identification number, such as a social security number, from the customer himself or herself, in every case, including over the telephone, would be unreasonable and impracticable because it would be contrary to banks' current practices and could alienate many potential customers. Accordingly, Treasury and the Agencies have adopted an exception for credit card accounts that will permit a bank offering such accounts to acquire information about the customer, including an identification number, from a trusted third party source prior to extending credit to the customer, rather than having to obtain this information directly from the customer prior to opening an account.

The final rule also provides that for a non-U.S. person, a bank must obtain one or more of the following: A taxpayer identification number (social security number, individual taxpayer identification number, or employer identification number); passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. This standard provides a bank with some flexibility to choose among a variety of identification numbers that it may accept from a non-U.S. person.²⁵ However, the identifying information the bank accepts must permit the bank to establish a reasonable belief that it knows the true identity of the customer.

Treasury and the Agencies emphasize that the final rule neither endorses nor prohibits bank acceptance of information from particular types of identification documents issued by foreign governments. A bank must decide for itself, based upon appropriate

risk factors, including those discussed above (the types of accounts maintained by the bank, the various methods of opening accounts provided by the bank, the other types of identifying information available, and the bank's size, location, and customer base), whether the information presented by a customer is reliable.

Treasury and the Agencies recognize that a foreign business or enterprise may not have a taxpayer identification number or any other number from a government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. Therefore, the final rule notes that when opening an account for such a customer, the bank must request alternative government-issued documentation certifying the existence of the business or enterprise.

The proposal also contained a limited exception to the requirement that a bank obtain a taxpayer identification number from a customer opening a new account. The exception permitted a bank to open an account for a person other than an individual (such as a corporation, partnership, or trust) that has applied for, but has not received, an employer identification number (EIN), provided that the bank obtains a copy of the application before it opens the account and obtains the EIN within a reasonable period of time after the account is established. The preamble for the proposed rule explained that this exception was included for a new business that might need access to banking services, particularly a bank account or an extension of credit, before it has received an EIN from the Internal Revenue Service.

Some commenters questioned this limited exception for certain businesses. A few commenters suggested expanding the exception to include individuals who have applied for, but have not yet received a taxpayer identification number. Another commenter stated that the exception provided no added benefit and would add to a bank's recordkeeping and monitoring burden.

Treasury and the Agencies have determined that a bank should be afforded more flexibility in situations where a person, including an individual, has applied for, but has not yet received, a taxpayer identification number. Therefore, the final rule states that instead of obtaining a taxpayer identification number from a customer prior to opening an account, the CIP may include procedures for opening an account for a customer (including an individual) that has applied for, but has not received, a taxpayer identification

²⁵ The rule provides this flexibility because there is no uniform identification number that non-U.S. persons would be able to provide to a bank. See Treasury Department, "A Report to Congress in Accordance with Section 326(b) of the USA PATRIOT Act," October 21, 2002.