

provided in accordance with the final rule, will be deemed adequate notice. In addition, it continues to permit banks to choose among a variety of low-cost methods of providing adequate notice and to select the least burdensome method, given the circumstances under which customers seek to open new accounts.

Treasury and the Agencies also believe that nominal burden is associated with the new recordkeeping requirement in § 103.121(b)(6). This section permits a bank to rely on another financial institution to perform some or all its CIP under certain conditions, including the condition that the financial institution enter into a contract with the bank providing that it will certify annually to the bank that it (1) has implemented its anti-money laundering program and (2) will perform (or its agent will perform) the specified requirements of the bank's CIP. Not all banks will choose to rely on a third party. For those that do, the minimal burden of retaining the certification described above should allow them to reduce net burden under the rule by such reliance.

Burden Estimates

Treasury and the Agencies have reconsidered the burden estimates published in the proposed rule, given the comments stating that the burdens associated with the paperwork collections were underestimated. Having done so, and considering the reduction in burden taken in this final rule, Treasury and the Agencies have adjusted their estimates of the paperwork burden of this rule. The burden estimates that follow are estimates of the incremental burden imposed upon banks by this final rule, recognizing that some of the requirements in this rule are a usual and customary practice in the banking industry, or duplicate other regulatory requirements.

The potential respondents are national banks and Federal branches and agencies (OCC financial institutions); state member banks and branches and agencies of foreign banks (Board financial institutions); insured state nonmember banks (FDIC financial institutions); savings associations (OTS financial institutions); Federally insured credit unions (NCUA financial institutions); and certain non-Federally regulated credit unions, private banks, and trust companies (FinCEN institutions).

Estimated number of respondents:
OCC: 2207.
Board: 1240.
FDIC: 5,500.

OTS: 962.

NCUA: 9,688.

FinCEN: 2,460.

Estimated average annual recordkeeping burden per respondent: 10 hours.

Estimated average annual disclosure burden per respondent: 1 hour.

Estimated total annual recordkeeping and disclosure burden: 242,627 hours.

Treasury and the Agencies invite comment on the accuracy of the burden estimates and invite suggestions on how to further reduce these burdens. Comments should be sent (preferably by fax (202-395-6974)) to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506-0026), Washington, DC 20503 (or by the Internet to jlackeyj@omb.eop.gov), with a copy to FinCEN by mail or the Internet at the addresses previously specified.

Executive Order 12866

Treasury, the OCC, and OTS have determined that the final rule is not a "significant regulatory action" under Executive Order 12866 for the following reasons.

The rule follows closely the requirements of section 326 of the Act. Moreover, Treasury, the OCC, and OTS believe that national banks and savings associations already have procedures in place that fulfill most of the requirements of the final rule because the procedures are a matter of good business practice. In addition, national banks and savings associations already are required to have BSA compliance programs that address many of the requirements detailed in this final rule.

At the proposed rule stage, Treasury, the OCC, and OTS invited national banks, the thrift industry, and the public to provide any cost estimates and related data that they think would be useful in evaluating the overall costs of the rule. Most of the cost estimates provided by commenters related to the requirements in the proposed rule that banks verify the identity of signatories on accounts, keep copies of documents used to verify a customer's identity, and retain identity verification records for five years after an account is closed. As described in the preamble, the final rule eliminates signatories from the definition of "customer," and no longer requires a bank to keep copies of documents used to verify a customer's identity. The final rule also reduces the universe of records that must be kept for five years after an account is closed. Treasury, the OCC and the OTS have taken other steps that significantly reduce the scope of the rule and the

burden of the rule. These burden-reducing measures are described in the Paperwork Reduction Act discussion and Regulatory Flexibility Act discussion, above.⁴³

List of Subjects

12 CFR Part 21

Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Investments, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 326

Banks, banking, Currency, Insured nonmember banks, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and Recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 748

Credit unions, Crime, and Security measures.

31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities.

Department of the Treasury

31 CFR Chapter I

Authority and Issuance

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is amended as follows:

⁴³ For these same reasons, and consistent with section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), Treasury, the OTS and the OCC have also determined that this final rule will not result in expenditures by State, local, and tribal governments in the aggregate, or by the private sector of \$100 million or more in any one year, and therefore the rule is not subject to the requirements of section 202 of that Act.