

in place policies and procedures to assure compliance with all applicable provisions of the Bank Secrecy Act, and that any deficiencies in the area of anti-money laundering, suspicious activity reporting, and customer due diligence are promptly identified and corrected. Institutions should note, however, that compliance with this requirement alone, while a potentially mitigating factor with regard to penalties or supervisory actions, is not a defense in a criminal prosecution or civil action involving a violation of the Bank Secrecy Act or regulations promulgated thereunder.

The Board seeks comment on all aspects of this proposal.

III. Regulatory Flexibility Act

The Board of Governors certifies that this proposed rule will not have significant economic impact on a substantial number of small entities. The proposal creates a uniform regulatory standard for ensuring and examining compliance with applicable law and regulation. Most institutions covered by the proposed rule, whether small or large, already have policies and procedures substantially equivalent to those required by the proposed rule. Therefore, the Board believes this proposed rule should not have a significant economic impact.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The proposed rule contains recordkeeping requirements that are subject to the PRA. In summary, the proposed rule requires Edge and Agreement corporations and U.S. branches, agencies and other offices of foreign banks supervised by the Board to establish and maintain procedures reasonably designed to assure and monitor compliance with the Bank Secrecy Act and the regulations issued thereunder.

The proposed rule applies only to Edge and Agreement corporations and U.S. branches, agencies, and other offices of foreign banks supervised by the Board. The proposed rule requires each of those entities to establish a written compliance program that includes the following components: (i) A system of internal controls to assure ongoing compliance; (ii) independent testing of compliance by the institution's personnel or by an outside party; (iii) the designation of an individual or individuals responsible for coordinating and monitoring day-

to-day compliance; and (iv) training for appropriate personnel. The compliance program must be approved by the board of directors, and noted in the minutes.

The Board believes that little burden is associated with the requirements for establishing a compliance program for the Bank Secrecy Act because the measures involved in the program are consistent with usual and customary business practices. In addition, the entities subject to the proposed rule already must implement procedures to comply with the requirements under the Bank Secrecy Act to file suspicious activity reports (see, e.g., 12 CFR 211.6(k)).

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this collection of information unless it displays a currently valid OMB control number. An OMB control number will be obtained.

Estimated number of financial institutions subject to the proposed rule: 520.

Estimated average annual burden for establishing the written compliance program per financial institution: 16 hours (2 business days).

Estimated total annual burden: 8,320 hours.

The Board requests comment on the recordkeeping requirements contained in this proposed rule, including how burdensome it would be for affected financial institutions to comply with these requirements. Also, the Board requests comment on whether these institutions currently maintain procedures or other aspects of a compliance program as described in the proposed rule. The Board also invites comment on:

(1) Whether the collections of information contained in the notice of proposed rulemaking are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(2) The accuracy of the Board's estimate of the burden of the proposed information collections;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collections on respondents; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to implement appropriate compliance procedures.

Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution

Avenue, NW, Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to regs.comments64:federalreserve.gov, or faxing them to the Office of the Secretary at 202-452-3819 or 202-452-3102. Members of the public may inspect comments in Room MP-500 between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

V. Solicitation of Comments Regarding Use of "Plain Language"

Section 722 of the Gramm-Leach-Bliley Act, P.L. 106-102, requires the Board to use "plain language" in all proposed and final rules published after January 1, 2000. The Board invites comments about how to make the proposed rule easier to understand, including answers to the following questions: (1) Has the Board organized the material in an effective manner? If not, how could the material be better organized? (2) Are the terms of the rule clearly stated? If not, how could the terms be more clearly stated? (3) Does the rule contain technical language or jargon that is unclear? If so, which language requires clarification?

List of Subjects in 12 CFR Part 211

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

For the reasons set forth in the preamble, part 211 of chapter II of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for 12 CFR part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, and 3901 *et seq.*; 15 U.S.C. 6801 and 6805; 31 U.S.C. 5318.

2. In §211.5 add new paragraph (m)(1) to read as follows:

§211.5 Edge and agreement corporations.

* * * * *

(m) *Procedures for monitoring Bank Secrecy Act compliance.*

(1) *Establishment of Compliance Program.* Each Edge corporation and each Agreement corporation shall, in accordance with the provisions of § 208.63 of the Board's Regulation H, 12 CFR 208.63, develop and provide for the