

the address at the time of the transaction. For example, if the bank retains the address information as part of its funds transfer records, it would retain the address at the time the funds transfer was processed. If the bank retains this information as part of its customer information file, it would retain the current address. For originators and beneficiaries other than established customers, however, the bank would retain the person's address at the time of the transaction, which is the only address that has been documented.

Several commenters, including commercial banks and credit unions, also mentioned that retrieving information by a secondary account holder's name would be more difficult than retrieving by a primary account holder's name in the case of a joint account. Customer information files typically are indexed on the primary account holder's name only. Commenters indicated that a search by a secondary account holder's name probably would require a manual search of the records. In order to comply with subpoenas and search warrants submitted by law enforcement agencies that request information by name, banks should have the capability to retrieve payment order records by secondary account holder name as well as by the name of the primary account holder. Banks that find it difficult to search by secondary account holder name for joint accounts may wish to consider the volume of law enforcement requests when making decisions about whether to make automation changes to facilitate searches by secondary account holder name or to rely on manual searches to satisfy these requests.

Many commenters noted that retrieving transactions by the name of an originator or beneficiary other than an account holder would be impractical, since a manual search of the bank's records would be required. One bank estimated that a search by a non-account holder's name would require three full days of manual searching for each day of funds transfer activity, and that the results of manual searches might not be very reliable. Banks may wish to consider implementing a separate recordkeeping system—either manual files or an automated database—containing only information related to payment orders for originators or beneficiaries that are not established customers, in order to search more easily for these transactions. If a bank has more than one customer with the same name, the bank may request more specific information from the law enforcement agency to determine the

exact individual desired. In situations where a law enforcement agency provides a bank with a customer's account number only, then the bank may search based on the account number only.

*Section 103.33(e)(6) and Section 103.33(f)(6)*

*Exceptions*—The proposed recordkeeping requirements exempted certain transfers based on the parties to the transfer. Several commenters requested that more transfers be exempted. Two commenters recommended that transfers involving public utilities, corporations listed on major stock exchanges, and businesses exempted from Currency Transaction Reporting be exempted under the rule. The Treasury and the Board believe that excluding such a broad category of entities would diminish the usefulness of the regulation; therefore, these entities are not exempted in the final rule.

To eliminate the redundancy in the proposed list of exemptions and to provide consistent treatment for wholly-owned domestic subsidiaries of domestic banks and domestic brokers or dealers in securities, the final rule has been revised to exempt transfers where the originator and beneficiary are any of the following: (1) A domestic bank; (2) a wholly-owned domestic subsidiary of a domestic bank; (3) a domestic broker or dealer in securities; (4) a wholly-owned domestic subsidiary of a domestic broker or dealer in securities; (5) the United States; (6) a state or local government; (7) a federal, state or local government agency or instrumentality. Funds transfers where both the originator and beneficiary are the same person and the originator's bank and the beneficiary's bank are the same domestic bank, as well as transmittals of funds where both the transmitter and recipient are the same person and the transmitter's financial institution and the recipient's financial institution are the same domestic broker or dealer in securities, also are exempted. These revisions expand the proposed exemptions to include transfers between a wholly-owned subsidiary of any domestic bank or broker or dealer in securities and any other exempted entity.

**C. Other Issues**

*Compliance Costs*—Many commenters provided estimates on the cost to implement the requirements of the proposed rule as well as an estimate on the annual ongoing costs to collect the required information. The cost estimates varied widely. A few smaller

credit unions indicated that they already were complying with the proposed requirements and therefore expected no additional implementation or maintenance costs as a result of the proposal. Larger commercial banks and credit unions, however, estimated their implementation costs at \$15,000 to \$879,000, and their maintenance costs as high as \$350,000 per year. Two nonbank providers of money transmitting services expected that compliance would be very costly. One money transmitter estimated \$946,000 of implementation costs and \$2 million of annual maintenance costs. Another provider of money transmitting services estimated \$3.3 million of implementation costs, which includes increased transaction time, additional hardware/software, and training costs. The same provider of money transmitting services, however, estimated that with a \$3,000 exemption threshold, its implementation cost would fall to \$710,000.

Implementing a \$3,000 threshold and limiting the verification requirements and supplemental recordkeeping requirements to transfers involving originators or beneficiaries that are not established customers will significantly reduce the burden and cost for banks to comply with the rule. The burden for nonbank financial institutions, particularly providers of money transmitting services, decreases dramatically under the final rule, as the majority of transmittals of funds they accept are for amounts of less than \$3,000.

*Retention Period*—Records required under the Bank Secrecy Act, including funds transfer records, must be retained for five years. A securities industry association, however, commented that Securities and Exchange Commission (SEC) retention regulations, which apply to broker/dealers, may differ from the five-year period depending upon the specific document containing the required information. The association recommended that the rule be amended to allow broker/dealers to comply with existing SEC rules, which would eliminate the need to modify existing retention practices and the administrative difficulties of maintaining inconsistent retention schedules. The Internal Revenue Service recommended that records be maintained for ten years, to ensure information related to audits would be available for its use.

SEC regulations require registered broker/dealers subject to Treasury's Bank Secrecy Act requirements to preserve their records according to 31 CFR Part 103, if such retention periods