

has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

(i) Except as specified in paragraph (k) of this AD: After the actions specified in paragraph (g) or (h) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the documents listed in paragraph (g) or (h) of this AD.

(j) Modifying the main fittings of the main landing gear in accordance with Messier-Dowty Service Bulletin 146-32-171, dated August 11, 2009, extends the safe limit of the main landing gear main fitting from 32,000 landings to 50,000 landings on the main fitting.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-4056; telephone (425) 227-1175; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Related Information

(l) EASA Airworthiness Directive 2009-0215, dated October 7, 2009; and Messier-Dowty Service Bulletin 146-32-171, dated August 11, 2009; also address the subject of this AD.

Issued in Renton, Washington, on March 2, 2010.

Suzanne Masterson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-5016 Filed 3-8-10; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 0908131235-0060-01]

RIN 0691-AA73

International Services Surveys: BE-180, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to set forth the reporting requirements for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. The BE-180 would replace a similar but more limited survey, the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons. The agency form number and survey title are being changed because the survey would include the collection of data on transactions with affiliated foreigners and unaffiliated foreigners using the same survey instrument. If adopted the BE-180 survey would be conducted once every five years beginning with fiscal year 2009.

The proposed BE-180 survey is intended to cover financial services transactions with foreign persons. In nonbenchmark years, the universe estimates covering these transactions would be derived from the sample data reported on BEA's follow-on survey (BE-185, Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons).

The data will be used by BEA to estimate the financial services component of the U.S. International Transactions Accounts and other economic accounts compiled by BEA. The data also are needed by the government to monitor U.S. exports and imports of financial services; analyze their impact on the U.S. and foreign economies; support U.S. international trade policy on financial services; and assess and promote U.S. competitiveness in international trade in services. In addition, they will improve the ability of U.S. businesses to identify and evaluate market opportunities.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m. May 10, 2010.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. For agency, select "Commerce Department—all."

- *E-mail:* Christopher.Emond@bea.gov.

- *Fax:* Chris Emond, Chief, Special Surveys Branch, (202) 606-5318.

- *Mail:* Chris Emond, Chief, Special Surveys Branch, Balance of Payments

Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Washington, DC 20230.

- *Hand Delivery/Courier:* Chris Emond, Chief, Special Surveys Branch, Balance of Payments Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Shipping and Receiving Section, M100, 1441 L Street, NW., Washington, DC 20005.

Please include in your comment a reference to RIN 0691-AA73 in the subject line. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent both to BEA, through any of the methods listed above, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project, Attention PRA Desk Officer for BEA, via e-mail at pbugg@omb.eop.gov, or by FAX at 202-395-7245.

Public Inspection: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commentator may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Chris Emond, Chief, Special Surveys Branch, Balance of Payments Division (BE-50), Bureau of Economic Analysis, U.S. DOC, Washington, DC 20230; e-mail Christopher.Emond@bea.gov; or phone (202) 606-9826.

SUPPLEMENTARY INFORMATION: This proposed rule would amend 15 CFR Part 801 to set forth the reporting requirements for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. The BE-180 would replace a similar but more limited survey, the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, and would include the collection of data on transactions with affiliated foreigners and unaffiliated foreigners. The proposed BE-180 survey is intended to cover financial services transactions with foreign persons. In nonbenchmark years, the universe estimates covering these transactions would be derived from the sample data reported on BEA's follow-on survey (BE-185, Quarterly Survey of Financial Services Transactions between U.S.

Financial Services Providers and Foreign Persons).

The survey would be mandatory for those U.S. financial companies that engage in the covered transactions in amounts that exceed the exemption level. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondents burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

The survey as described in this rule would be conducted by BEA every five years, with the first survey covering fiscal year 2009, under the authority provided by the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, “the Act,” and by Section 5408 of the Omnibus Trade and Competitiveness Act of 1988. If this proposed rule is implemented, BEA would send the survey to potential respondents in June of 2010; responses would be due by August 31, 2010.

The services covered by the BE–180 would include the following transactions: (1) Brokerage services related to equity transactions, and (2) other brokerage services; (3) underwriting and private placement services; (4) financial management services; (5) credit-related services, except credit card services, and (6) credit card services; (7) financial advisory and custody services; (8) securities lending services; (9) electronic funds transfer services; and (10) other financial services. The exemption level for the proposed survey is total sales or purchases of \$3 million during the reporting period, for the ten categories listed above. Financial companies that exceed this threshold must supply data on the amount of their financial transactions for each category, disaggregated by country and by its relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated). In addition, this survey would collect subcomponents of financial management receipts at the global level.

U.S. financial companies that are exempt from the survey’s reporting requirements because they do not meet the reporting threshold are requested to provide, on a voluntary basis, estimates of their covered financial services transactions. Any U.S. financial company that receives the BE–180 survey form from BEA, but does not report data because it is exempt under the regulations, must file an exemption claim by completing pages one through five of the survey. This requirement is

necessary to ensure efficient administration of the Act by eliminating unnecessary follow-up contact. If a U.S. financial company does not receive the BE–180 survey form and is not otherwise required to report under these regulations, then the company is not required to take any action.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users, to ensure that, as far as possible, the required data serve their intended purposes and are available from the existing records, that instructions are clear, and that unreasonable burdens are not imposed. In reaching decisions on questions to include in the survey, BEA considered the Government’s need for the data, the burden imposed on respondents, the quality of the likely responses (for example, whether the data are available on respondents’ books), and BEA’s experience in previous benchmark, annual, and quarterly surveys.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, would conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), and Section 5408 of the Omnibus Trade and Competitiveness Act of 1988. Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection.

In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated the responsibilities under the Act for performing functions concerning international trade in services to the Secretary of Commerce, who has redelegated them to BEA.

Data from the proposed survey are needed to monitor U.S. exports and imports of financial services; analyze their impact on the U.S. and foreign economies; compile and improve the U.S. international transactions, national income and product, and input-output accounts; support U.S. international trade policy on financial services; assess and promote U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The requirement will be submitted to OMB as a request to reinstate with change a previously approved collection for which approval has expired under OMB Control Number 0608–0062.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number.

The benchmark survey, as proposed, is expected to result in the filing of reports from approximately 8,000 respondents. Approximately 1,000 respondents would report mandatory or voluntary data on the survey and approximately 7,000 would file exemption claims. The respondent burden for this collection of information would vary from one respondent to another, but is estimated to average ten hours, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information for the respondents that file mandatory or voluntary data and two hours for other responses. Thus, the total respondent burden for the survey is estimated at 24,000 hours.

Comments are requested concerning:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- the accuracy of the burden estimate;
- ways to enhance the quality, utility, and clarity of the information collected; and
- ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent both to BEA, through any of the methods listed above, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project, Attention PRA Desk Officer for BEA, via e-mail at pbugg@omb.eop.gov, or by FAX at 202-395-7245.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. While the survey does not collect data on total sales or other measures of the overall size of the businesses that respond to the survey, historically the respondents to the existing quarterly survey of financial services transactions and to the previous benchmark surveys have been comprised mainly of major U.S. corporations. The proposed benchmark survey will be required from U.S. financial companies whose sales or purchases of the covered financial services with foreign persons exceeded \$3 million for fiscal year 2009. This exemption level will exclude most small businesses from mandatory coverage. Any small businesses that may be required to report would likely have engaged in only a few covered transactions and so the burden on them would be relatively small.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: January 12, 2010.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; and E.O. 11961, 3 CFR, 1977 Comp., p. 86, as amended by E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Amend § 801.9 by revising paragraph (a) to read as follows:

§ 801.9 Reports required.

(a) *Benchmark surveys.* Section 4(a)(4) of the Act (22 U.S.C. 3103) provides that benchmark surveys of trade in services between U.S. and foreign persons be conducted, but not more frequently than every 5 years. General reporting requirements, exemption levels, and the years of coverage for the BE-120 survey may be found in § 801.10: General reporting requirements, exemption levels, and the years of coverage for the BE-140 survey may be found in § 801.11: More detailed instructions are given on the forms themselves; and general reporting requirements, exemption levels, and the years for coverage for the BE-180 survey may be found in § 801.12:

* * * * *

§ 801.11 [Removed]

3. Remove § 801.11.

§ 801.12 [Redesignated as § 801.11]

4. Redesignate § 801.12 as § 801.11.
5. Add section 801.12 to read as follows:

§ 801.12 Rules and regulations for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons.

(a) The BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, will be conducted beginning with fiscal year 2009 and every fifth year thereafter. More detailed instructions are given on the report forms and instructions.

(b) *Who must report—(1) Mandatory reporting.* A report is required from each U.S. person that is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and that had transactions (either sales or purchases) directly with foreign persons in all financial services combined in excess of \$3,000,000 during its fiscal year covered by the survey on an accrual basis. The \$3,000,000 threshold should be applied to financial services transactions with foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the \$3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or

intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters that file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated).

(2) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are \$3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the \$3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both.

(3) *Exemption claims.* Entities that receive the BE-180 survey but are not subject to the mandatory reporting requirements and choose not to report data voluntarily must file an exemption claim by completing pages one through five of the BE-180 survey and returning them to BEA.

(c) *BE-180 definition of financial services provider.* The definition of financial services provider used for this survey is identical to the definition of the term as used in the North American Industry Classification System, United States, 2007, Sector 52—Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55—Management of Companies and Enterprises). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); non-depository credit intermediation (including credit card issuing, sales financing, and other non-depository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing,

reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts and dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(d) *Covered types of services.* The BE-180 survey covers the following types of financial services transactions (sales or purchases) between U.S. financial companies and foreign persons: Brokerage services related to equity transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services.

* * * * *

[FR Doc. 2010-4983 Filed 3-8-10; 8:45 am]

BILLING CODE 3510-06-P

FEDERAL TRADE COMMISSION

16 CFR Part 322

RIN 3084-AB18

MORTGAGE ASSISTANCE RELIEF SERVICES

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice of Proposed Rulemaking; request for public comment.

SUMMARY: Pursuant to the 2009 Omnibus Appropriations Act (Omnibus Appropriations Act), which was later clarified by the Credit Card Accountability and Responsibility and Disclosure Act of 2009 (Credit CARD Act), the Commission issues a Notice of Proposed Rulemaking (NPRM)

concerning the practices of for-profit companies that, in exchange for a fee, offer to work with lenders and servicers on behalf of consumers to modify the terms of mortgage loans or to avoid foreclosure on those loans. The proposed Rule published for comment, among other things, would: prohibit providers of these services from making false or misleading claims; mandate that providers disclose certain information about these services; bar the collection of advance fees for these services; prohibit persons from providing substantial assistance or support to an entity they know or consciously avoid knowing is engaged in a violation of these Rules; and impose recordkeeping and compliance requirements.

DATES: Comments must be received by March 29, 2010.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted at (<http://public.commentworks.com/ftc/MARS-NPRM>) (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex W), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT:

Laura Sullivan, Evan Zullo, or Robert Mahini, Attorneys, Division of Financial Practices, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

On March 11, 2009, President Obama signed the Omnibus Appropriations Act.¹ Section 626 of this Act directed the Commission to commence, within 90 days of enactment, a rulemaking proceeding with respect to mortgage loans.² Section 626 also directed the FTC to use notice and comment rulemaking procedures under Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553.³

¹ 2009 Omnibus Appropriations Act, Pub. L. 111-8, 123 Stat. 524.

² *Id.* § 626(a).

³ *Id.* Because Congress directed the Commission to use these APA rulemaking procedures, the FTC will not use the procedures set forth in Section 18 of the FTC Act, 15 U.S.C. 57a.

On May 22, 2009, President Obama signed the Credit CARD Act.⁴ Section 511 of this act clarified the Commission's rulemaking authority under the Omnibus Appropriations Act. First, Section 511 specified that the rulemaking "shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services."⁵ The Omnibus Appropriations Act, as clarified by the Credit CARD Act, does not specify any particular types of provisions that the Commission should or should not include in a rule addressing loan modification and foreclosure rescue services but rather directs the Commission to issue rules that "relate to" unfairness or deception.⁶ Accordingly, the Commission interprets the Omnibus Appropriation Act to allow it to issue rules prohibiting or restricting conduct that may not be unfair or deceptive itself but would be reasonably related to the goal of preventing unfairness or deception.⁷

Second, Section 511 of the Credit CARD Act clarified that the Commission's rulemaking authority was limited to entities that are subject to enforcement by the Commission under the FTC Act.⁸ The rules the Commission promulgates to implement the Omnibus Appropriations Act, therefore, cannot cover the practices of banks, thrifts, federal credit unions,⁹ or certain nonprofits.¹⁰

The Omnibus Appropriations Act, as clarified by the Credit CARD Act, also permits both the Commission and the

⁴ Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. 111-24, 123 Stat. 1734 (Credit CARD Act).

⁵ *Id.* § 511(a)(1)(B).

⁶ *Id.*

⁷ Unlike Section 18 of the FTC Act, 15 U.S.C. 57, the Omnibus Appropriations Act, as clarified by the Credit CARD Act, does not require that the Commission identify with specificity in the rule the unfair or deceptive acts or practices that the prohibitions will prevent. Omnibus Appropriations Act § 626(a); Credit CARD Act § 511(a)(1)(B); see also *Katharine Gibbs Sch. v. FTC*, 612 F.2d 658 (2d Cir. 1979).

⁸ Credit CARD Act § 511(a)(1)(B).

⁹ 15 U.S.C. 45(a)(2).

¹⁰ 15 U.S.C. 44. Bona fide nonprofit entities are exempt from the jurisdiction of the FTC Act. Sections 4 and 5 of the FTC Act confer on the Commission jurisdiction over persons, partnerships, or corporations organized to carry on business for their profit or that of their members. 15 U.S.C. 44, 45(a)(2). The FTC does, however, have jurisdiction over for-profit entities that provide mortgage-related services as a result of a contractual relationship with a nonprofit organization. See *Nat'l Fed'n of the Blind v. FTC*, 420 F.3d 331, 334-35 (4th Cir. 2005). In addition, the Commission asserts jurisdiction over "sham charities" that operate as for-profit entities in practice. See *infra* note 112 and accompanying text.