

banks and credit card/debit card processors, will provide the same chargeback protections to those using debit cards as credit card users receive under the Fair Credit Billing Act.

Finally, as a matter of enforcement policy, the Enforcement Office will consider any voucher program such as that offered by Direct Air a *per se* violation of 14 CFR Part 380, and if that office discovers such a program it will pursue immediate enforcement action. A voucher program that accepts consumer funds without the consumer entering into a contract with specific flight dates is not the equivalent of the operator-participant contract required under Part 380 and does not provide protection of consumer funds under the escrow provisions of section 380.34.

This revised policy regarding approval of charter prospectuses will take effect 30 days from the date of this notice. Prospectuses filed after that date will not be accepted without the supplemental statements, outlined above. The Enforcement Office intends to undertake enforcement action, where appropriate, if it obtains evidence of violations of commitments made in those statements, or of the acceptance of debit purchases, or of sales initiatives such as the voucher program described above. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Avenue SE., Washington, DC 20590.

An electronic version of this document is available at <http://www.regulations.gov>

Dated: November 13, 2012.

Paul L. Gretch,

Director, Office of International Aviation.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 2012-28060 Filed 11-19-12; 8:45 am]

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 14, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, on or after the date of publication of this notice.

DATES: Comments should be received on or before December 20, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at

OIRA_Submission@OMB.EOP.GOV and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927-5331, email at *PRA@treasury.gov*, or the entire information collection request maybe found at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearances for Meaningful Access Information Collections.

OMB Control Number: NEW.

Abstract: A court order was issued in *American Council of the Blind v. Paulson*, 591 F. Supp. 2d 1 (D.D.C. 2008) (“*ACB v. Paulson*”) requiring the Department of the Treasury and BEP to “provide meaningful access to United States currency for blind and other visually impaired persons, which steps shall be completed, in connection with each denomination of currency, not later than the date when a redesign of that denomination is next approved by the Secretary of the Treasury * * *.”

In compliance with the court’s order, BEP intends to meet individually with blind and visually impaired persons and request their feedback about tactile features that BEP is considering for possible incorporation into the next U.S. paper currency redesign. BEP employees will attend national conventions and conferences for disabled persons. At those gatherings, BEP employees will invite blind and visually impaired persons to provide feedback about certain tactile features being considered for inclusion in future United States currency paper designs.

The BEP also intends to contract with specialists in the field of visual acuity to develop methodologies for conducting scientific tests. Using those methodologies, the BEP or its contracted specialists will conduct acuity testing with select groups of blind and visually impaired volunteers. The acuity tests will help either confirm or provide other perspectives on the results of BEP’s information collections at national conferences and conventions. The acuity tests will also help ground bases for which BEP determines the

tactile feature to be incorporated into the next United States paper currency design.

The BEP’s information collection activities at national conferences will use identical methodologies or otherwise share a common element. Similarly, the BEP’s scientific studies will use very similar methodologies or share a common element. Thus the BEP, in order to comply with the court’s order in *ACB v. Paulson* requests OMB approval for two generic clearances to conduct various information collection activities. Over the next three years, the BEP anticipates undertaking a variety of new information collection activities related to BEP’s efforts to provide meaningful access to U.S. paper currency for blind and visually impaired persons. Following standard OMB requirements, for each information collection that BEP proposes to undertake under each of these generic clearances, the OMB will be notified at least two weeks in advance and provided with a copy of the information collection instrument along with supportive materials. The BEP will only undertake a new collection if the OMB does not object to the BEP’s proposal.

Type of Review: New Collection.

Affected Public: Individuals, Organizations.

Respondent’s Obligation: Voluntary.

Estimated Number of Respondents: Approximately 500 per year. The BEP will conduct the majority of its information collection activities at conferences and conventions of organizations of blind and visually impaired persons. The BEP is able to estimate the number of attendees at such conferences and meetings based on historical data. The BEP, however, only collects information from volunteers who stop by its information booth, and who care to take the time responding to questions. It is difficult, therefore, to estimate the actual number of respondents from whom BEP may be able to collect information in a year. The BEP’s scientific studies may include more focused sample sizes, comprised of persons volunteering to participate in the studies.

Estimated Average Time per Respondent: 30 minutes per response.

Estimated Total Annual Burden Hours: Approximately 250 burden hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the

collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burden of the proposed information collection; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the reporting burdens on respondents, including the use of automated collection techniques or other forms of information technology.

Treasury Department PRA Clearance Officer: Robert Dahl, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue NW., Washington, DC 20220.

BEP Contact: Sonya White, Deputy Chief Counsel, United States Department of the Treasury, Bureau of Engraving and Printing, Room 419-A, 14th and C Streets SW., Washington, DC 20228.

Robert Dahl,

Treasury Department PRA Clearance Officer.

[FR Doc. 2012-28112 Filed 11-19-12; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Final determination.

SUMMARY: The Commodity Exchange Act (“CEA”), as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), authorizes the Secretary of the Treasury (“Secretary”) to issue a written determination that foreign exchange swaps, foreign exchange forwards, or both, should not be regulated as swaps under the CEA. The Secretary is issuing a determination that exempts both foreign exchange swaps and foreign exchange forwards from the definition of “swap,” in accordance with the applicable provisions of the CEA.

DATES: Effective November 20, 2012.

FOR FURTHER INFORMATION CONTACT: Office of Financial Markets, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 622-2000; Thomas E. Scanlon, Office of the General Counsel, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 622-8170.

SUPPLEMENTARY INFORMATION: Title VII of the Dodd-Frank Act¹ amends the

CEA, as well as Federal securities laws, to provide a comprehensive regulatory regime for swaps. Section 721 of the Dodd-Frank Act amends section 1a of the CEA, which, in relevant part, defines the term “swap” and includes foreign exchange swaps and foreign exchange forwards in the definition.² Section 1a(47)(E) of the CEA authorizes the Secretary to make a written determination that “foreign exchange swaps”³ or “foreign exchange forwards,”⁴ or both— (I) should not be regulated as swaps under the CEA; and (II) are not structured to evade the Dodd-Frank Act in violation of any rule promulgated by the Commodity Futures Trading Commission (“CFTC”) pursuant to section 721(c) of the Dodd-Frank Act.⁵

On October 28, 2010, the Department of the Treasury (“Treasury”) published in the **Federal Register** a Notice and Request for Comments (“October 2010 Notice”) to solicit public comment on a wide range of issues relating to whether foreign exchange swaps and foreign exchange forwards should be exempt from the definition of the term “swap” under the CEA.⁶

On May 5, 2011, Treasury published a notice of proposed determination (“NPD”) seeking comment on a proposed determination that would exempt both foreign exchange swaps and foreign exchange forwards from the definition of “swap,” as well as on the factors that would support such a determination.

In addition, Treasury staff has engaged in a broad outreach to representatives from multiple market segments, as well as market regulators and the Federal regulatory agencies. After assessing the comments in response to the October 2010 Notice and the NPD, consulting with Federal regulators, and considering the factors set forth in section 1b(a) of the CEA, as discussed below, the Secretary finds that a determination pursuant to sections 1a(47)(E) and 1b that “foreign exchange swaps” and “foreign exchange forwards” should not be regulated as swaps under the CEA, and therefore should be exempted from the definition of the term “swap” under the CEA, is appropriate.

In making a determination pursuant to sections 1a(47)(E) and 1b of the CEA, the Secretary must consider, and has considered, the following factors:

² 7 U.S.C. 1a(47).

³ 7 U.S.C. 1a(25).

⁴ 7 U.S.C. 1a(24).

⁵ 7 U.S.C. 1a(47)(E)(i).

⁶ 75 FR 66,426 (Oct. 28, 2010). Thirty comments were submitted in response to the October 2010 Notice.

(1) Whether the required trading and clearing of foreign exchange swaps and foreign exchange forwards would create systemic risk, lower transparency, or threaten the financial stability of the United States;

(2) Whether foreign exchange swaps and foreign exchange forwards are already subject to a regulatory scheme that is materially comparable to that established by the CEA for other classes of swaps;

(3) The extent to which bank regulators of participants in the foreign exchange market provide adequate supervision, including capital and margin requirements;

(4) The extent of adequate payment and settlement systems; and

(5) The use of a potential exemption of foreign exchange swaps and foreign exchange forwards to evade otherwise applicable regulatory requirements.⁷

I. Summary of Final Determination

The CEA, as amended by the Dodd-Frank Act, provides a comprehensive regulatory regime for swaps and derivatives, including a wide range of foreign exchange derivatives, such as foreign exchange options, currency swaps, or non-deliverable forwards (“NDFs”). Among other measures, this regulatory regime provides for clearing and exchange-trading requirements that are designed to mitigate risks, promote price transparency, and facilitate more stable, liquid markets for derivative instruments.

In general, swaps, including foreign exchange derivatives, carry three types of risks: (i) Counterparty credit risk prior to settlement; (ii) market risk; and (iii) settlement risk. Counterparty credit risk prior to settlement is the risk that a party to the transaction potentially could default prior to the settlement date, which could result in the non-defaulting party suffering an economic loss associated with having to replace the defaulted contract with another transaction at the then-current terms.

⁷ 7 U.S.C. 1b(a). In addition, section 1b(b) of the CEA provides that, “[i]f the Secretary makes a determination to exempt foreign exchange swaps and foreign exchange forwards from the definition of the term ‘swap,’” the Secretary must submit a separate “determination” to the appropriate committees of Congress, which contains (1) an explanation as to why foreign exchange swaps and foreign exchange forwards are “qualitatively different from other classes of swaps” such that foreign exchange swaps and foreign exchange forwards are “ill-suited for regulation as swaps” and (2) an “identification of the objective differences of foreign exchange swaps and foreign exchange forwards with respect to standard swaps that warrant an exempted status.” The Secretary has submitted this determination to the appropriate committees of Congress, and, therefore, this determination is effective, pursuant to section 1a(47)(E)(ii) of the CEA.

¹ Public Law 111-203, title VII.