

## Supplemental Statement

### 1. Circumstances Necessitating Collection of Information.

The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.<sup>1</sup> Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 326 of the USA PATRIOT Act added a new subsection (h) to 31 U.S.C. 5318 of the Bank Secrecy Act that requires the Secretary of the Treasury to require financial institutions to establish and maintain anti-money laundering programs. Pursuant to section 352, FinCEN issued regulations requiring money services businesses (31 CFR 103.125), mutual funds (31 CFR 103.130), and operators of credit card systems (31 CFR 103.135) to develop and implement a written anti-money laundering program. The program must be reasonably designed to prevent these financial institutions from being used for money laundering or the financing of terrorist activities, and to achieve and monitor compliance with applicable Bank Secrecy Act requirements.

### 2. Method of Collection and use of data.

The anti-money laundering program requirements will be used by money services businesses, mutual funds, and operators of credit card systems to detect the occurrence of transactions required to be recorded or reported under the Bank Secrecy Act (BSA) and to ensure that such institutions are not used to facilitate money laundering or terrorist financing. The compliance program will be reviewed by federal agencies during the course of BSA compliance examinations.

### 3. Use of Improved Information Technology to Reduce Burden.

Financial institutions are permitted to automate their anti-money laundering program to meet their requirements. There is no specific government mandate to do so.

### 4. Efforts to Identify Duplication

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<sup>1</sup> Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, P.L. 107-56.

There is no similar information available; thus there is no duplication.

5. Methods to Minimize Burden on Small Businesses or other Small Entities

All financial institutions are required to document their anti-money laundering program and are permitted to use the method most suitable to their requirement.

6. Consequences to the Federal Government of not collecting the Information.

The federal government requires reporting of this information only upon request.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

Under 31 CFR 103.38, records must be kept for 5 years. This retention period is necessary to substantiate violations that have occurred within the statute of limitations (5 or 6 years).

8. Consultation with Individuals Outside of the Agency on Availability of Data, Frequency of Collection, Clarity of Instructions and Forms, and Data Elements.

On March 3, 2009, we issued a notice and request for comment concerning the anti-money laundering program requirement for money services businesses, mutual funds, and operators of credit card systems (See 74 FR 9127). A copy of the notice and request for comments is attached. We received no comments in response to the Federal Register notice.

9. Payments and Gifts

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information collected under 31 U.S.C. 5318(h) may be made available to appropriate law enforcement agencies and supervisory agencies.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

Frequency: As required.

Estimated number of respondents: 203,006 broken out as follows: 31 CFR 103.125 = 200,000, 31 CFR 103.130 = 3,000, 31 CFR 103.135 = 6.

Estimated annual responses: 203,006 broken out as follows: 31 CFR 103.125 = 200,000, 31 CFR 103.130 = 3,000, 31 CFR 103.135 = 6.

Estimated number of hours: 203,006 (1 hour per response) as follows: 31 CFR 103.125 = 200,000, 31 CFR 103.130 = 3,000, 31 CFR 103.135 = 6.

13. Estimated Annual Cost to Respondents for Hour Burdens.

Not required

14. Estimated Annual Cost to the Federal Government.

Not required

15. Reason for Change in Burden.

Not applicable

16. Plans for Tabulation, Statistical Analysis, and Publication.

This collection of information will not be published.

17. Request not to Display Expiration Date of OMB Control Number.

FinCEN requests that it not be required to display the expiration date so that the regulations will not have to be amended for the new expiration date every three years.

18. Exceptions.

There are no exceptions to the certification statement on OMB Form 83-1.