

## 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 (l) to 31 U.S.C. 5318 of the Bank Secrecy Act. Pursuant to section 326, FinCEN issued joint regulations with the federal bank regulatory agencies that require banks, savings associations, credit unions, and certain non-federally regulated banks to establish a written customer identification program and to maintain records related to verifying the identity of customers. 31 CFR 103.121. Under the regulations, the customer identification program must include reasonable procedures for 1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; 2) maintaining records of the information used to verify the person’s identity, including name, address, and other identifying information; and 3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

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

The information will be used to verify the identity of persons seeking to open accounts at futures commission merchants and introducing brokers in an effort to prevent and detect money laundering and the financing of terrorism. In addition to deterring money laundering and terrorist financing, the establishment of comprehensive procedures for verifying the identity of customers should reduce the growing incidence of fraud and identity theft involving new accounts

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

Since the collection of information involves establishing compliance procedures, financial institutions may use any method of improved information technology that meets the requirements of the regulation.

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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.

#### 4. Efforts to Identify Duplication

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

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

The information requirements will not have a significant economic impact on a substantial number of small entities.

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

Not applicable – collection of information involves establishing compliance

#### 7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

The information collection requires retention of customer records for five years (31 CFR 103.38) to permit use by law enforcement agencies. In other respects, the collection is conducted in a manner consistent with the guidelines set forth in 5 CFR 1320.5(d)(2).

#### 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 13, 2009, we issued a notice and request for comment concerning the Customer Identification Program for banks, savings associations, credit unions, and certain non-federally regulated banks (74 FR 10993). A copy of the notice and request for comments is attached. We received two comments in response to the federal register notice indicating that the stated burden was insufficient. After careful review, we believe the burden estimate for this control number is correct. We note that neither respondent recognized the burden associated with an existing similar recordkeeping requirement of 31 CFR 103.34.<sup>2</sup> This similar recordkeeping requirement was approved during the 2008 renewal without change of 1506-0009.<sup>3</sup> In view of the information available, we elect not to make any change at this time. We will continue to monitor for any burden changes during the next renewal cycle.

#### 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(l) may be made available to appropriate

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<sup>2</sup> The 2003 approved final rule responded that Treasury and the Agencies believe that little additional burden is associated with the recordkeeping requirements of the proposal, because such recordkeeping is a usual and customary business practice. In addition, banks already must keep similar records to comply with existing regulations in 31 CFR Part 103 (see e.g., 31 CFR 103.34, requiring certain records for each deposit or share account opened). See 68 FR 25107-25108, 5/9/03.

<sup>3</sup> See OMB Control Number 1506-0009, ICR Reference Number 200804-1506-001, 8/31/2011, Supplemental Statement Item 12, (10) Additional records to be made and retained by banks (31 CFR 103.34 and 103.38).

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: 22060.

Estimated annual responses: 22060

Estimated annual burden: 242,660 hours (Recordkeeping average of 10 hours per response;

Estimated average annual discloser burden of 1 hour per response).

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.

N/A

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, in order to avoid amending the regulation every three years.

18. Exceptions.

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