

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.¹ 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 Securities and Exchange Commission that require mutual funds to establish a written customer identification program and to maintain records related to verifying the identity of customers. 31 CFR 103.131. 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.

¹ 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 mutual funds (See 74 FR 10993). 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(l) 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: 2,296.

Estimated Average Annual Burden Per Respondent: The estimated average burden

associated with the notice requirement in this proposed rule is 2 minutes per respondent.

Estimated annual responses: 8,001,000

Estimated annual burden hours: 266,700

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.

Adjustment.

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.