

Supplemental Statement
Records to be made and retained by financial institutions
OMB Control Number 1506-XXXX

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.

Each financial institution must retain an original or copy of records related to extensions of credit in excess of \$10,000 (other than those secured by real property), and records related to transfers of funds, currency, other monetary instruments, checks, investment securities, or credit of more than \$10,000 to or from the United States (31 CFR 103.33(a)-(c)). Banks and non-bank financial institutions must also maintain records related to, and include certain information as part of, funds transfers or transmittals of funds involving more than \$3,000 (31 CFR 103.33(e)-(f), and 103.33(g)). The required records must be maintained for five years (31 CFR 103.38).

2. Method of Collection and use of data.

Should FinCEN issue regulations under this authority, it will provide a burden estimate specific to those regulations. Currently there is no requirement.

3. Use of Improved Information Technology to Reduce Burden.

Not applicable

4. Efforts to Identify Duplication

Not applicable

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

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.

Not applicable

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

Not applicable

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

Should FinCEN issue regulations under this section then 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 January 9, 2008, FinCEN issued a notice and request for comment to renew without change this potential requirement (See 73 FR 5628). 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. 5311 -5332 may be made available to appropriate law enforcement agencies and supervisory agencies.

11. Justification of Sensitive Questions.

Not applicable

12. Estimated Annual Hourly Burden.

Frequency: As required.

Burden: 31 CFR 103.33(a)-(c). The estimated number of recordkeepers is 22,900.

The estimated annual recordkeeping burden per recordkeeper is 50 hours, for a total estimated annual recordkeeping burden of 1,145,000 hours.

31 CFR 103.33(e)-(f). The estimated number of recordkeepers is 35,500. The estimated annual recordkeeping burden per recordkeeper is 16 hours, for a total estimated annual recordkeeping burden of 568,000.

31 CFR 103.33(g). The estimated number of recordkeepers is 35,500. The estimated annual recordkeeping burden per recordkeeper is 12 hours, for a total estimated annual recordkeeping burden of 426,000.

For a total of 2,139,000

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.