

Supplemental Statement
Office of Management and Budget Control Number 1506-0035

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 (“BSA”) appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 352 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 (“AML”) programs. Pursuant to section 352, FinCEN issued regulations requiring insurance companies to develop and implement a written AML program (31 CFR 1025.210). Effective February 14, 2012, an AML requirement was added to non-bank residential mortgage lenders and originators (*See* 77 FR 8148, 31 CFR 1029.210). 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 BSA requirements.

2. Method of Collection and Use of Data.

The anti-money laundering program requirements will be used by insurance companies and non-bank residential mortgage lenders and originators to detect the occurrence of transactions required to be recorded or reported under the 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 AML program to meet their requirements. There is no specific government mandate to do so.

4. Efforts to Identify Duplication.

¹ Language expanding the scope of the BSA 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 Act of 2001, P.L. 107-56 (“USA PATRIOT Act”).

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 AML programs and are permitted to use the method most suitable to their requirements.

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 1010.430, records must be kept for 5 years. This retention period is necessary to substantiate violations that have occurred within the statute of limitations (5 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 February 23, 2015, we issued a notice and request for comments to renew existing AML programs. (See 80 FR 9504). FinCEN received one comment in response to the Federal Register notice. The Council of Insurance Agents and Brokers expressed the Council's continued support for FinCEN's decision to distinguish between insurance products that store value and other insurance products for purposes of anti-money laundering programs.

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: 32,200 (1,200 insurance/31,000 non-bank residential mortgage lenders and originators).

Estimated Number of Responses: 32,200.

Estimated Number of Hours: 32,200.

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.

Program Change. Once established, a one-hour annual maintenance burden is recognized to reflect the requirement for possible updates.

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.