

Supplemental Statement
Customer Due Diligence Requirements for Financial Institutions
Office of Management and Budget Control Number 1506-0070

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 BSA 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 is issuing regulations requiring financial institutions to develop and implement a written AML program that includes enhanced due diligence (CDD), 31 CFR 1010.230. The program must be reasonably designed to prevent financial institutions from being used for money laundering or the financing of terrorist activities, and to achieve and monitor compliance with applicable BSA. The financial institutions affected are banks (31 CFR 1020.210), broker-dealers (31 CFR 1023.210), mutual funds (31 CFR 1024.210), and Futures Commission Merchants and Introducing Brokers in Commodities (31 CFR 1026.210). This final rule amends the AML program for the affected financial institutions to require that the beneficial owners of new entity accounts opened be collected and recorded by the financial institution where the account is maintained.

2. Method of Collection and Use of Data.

The AML program requirements will be used by the above financial institutions 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. There is no standard form. An example of a certificate (not numbered and is not required to be used) that FIs may use if they desire is included/attached.

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”).

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.

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 August 4, 2014, we issued a notice and request for comment concerning the enhanced anti-money laundering program requirement for financial institutions (See 79 FR 45151). We received 141 comments in response to the Federal Register notice. Comments may be reviewed at www.regulations.gov, search for "Fincen-2014-0001" under "Document Type" left menu select public submissions to review all 176 public comments. FinCEN has responded to the comments in the final rule.

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.

There are no questions of a sensitive nature in the collection of information. Any personally identifiable information collected under the Bank Secrecy Act is strictly

controlled as outlined in FinCEN's Systems of Records Notice http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf.

12. Estimated Annual Hourly Burden.

Frequency: As required.

Estimated number of respondents: 29,917.²

Estimated annual responses: 10,843,875.

Estimated at thirty minutes per respondent:

Estimated Number of Hours: 7,041,289³.

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.

This is a new requirement.

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

The final rule reviews the RIA analysis.

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.

² This includes depository institutions (12,513), broker-dealers in securities (4,269), futures commission merchants (101), introducing brokers in commodities (1,323), and open-end mutual funds (10,711), each as defined under the BSA. These figures represent the total number of entities that would be subject to the requirements in the final rule.

³ 10,843,875 x 30 minutes per account established ÷ 60 minutes per hour = 5,421,937 hours (plus development time of 1,619,352 hours for a total of 7,041,289 hours in the first year).

