

Supporting Statement
Anti-Money Laundering Programs; Due Diligence Programs for Correspondent Accounts
for Foreign Financial Institutions
OMB Control Number 1506-0046

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, to require, *inter alia*, 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 Chapter X. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 312 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, added a new paragraph (i) to 31 U.S.C. 5318. Section 312 requires U.S. financial institutions to conduct, *inter alia*, enhanced due diligence with regard to correspondent accounts that they establish, maintain, administer, or manage for certain foreign banks. We issued a final regulation to implement the enhanced due diligence provisions of section 312.² Under the final rule, U.S. financial institutions subject to section 312 are required, as appropriate: (i) to obtain information relating to the anti-money laundering programs of certain foreign banks that have correspondent account relationships with the U.S. financial institutions, (ii) to obtain information from the foreign banks about the identity of persons with authority to direct transactions through the correspondent accounts if they are payable-through accounts, as well as information about the sources and beneficial owners of funds or other assets in the payable-through accounts; and (iii) to obtain the identity of certain owners of any such foreign bank that is privately owned and the nature and extent of the ownership interest.

2. Method of Collection and Use of Data.

The collection of information is not reported to the federal government. Instead, financial institutions are required to obtain information from foreign banks and keep copies of documents obtained from the foreign banks. The information will help protect the U.S. financial system from abuse by money launderers and others engaged in financial crimes and terrorism financing.

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 Act of 2001, P.L. 107-56.

² 31 CFR 1010.610.

3. Use of Improved Information Technology to Reduce Burden.

Financial institutions are permitted to automate their records systems to meet these 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, when appropriate, to identify any correspondent bank clients of the U.S. financial institution's foreign correspondent and are permitted to use the method most suitable to these requirements.

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

Without this information, the Federal government's efforts to prevent money laundering and terrorism financing would be weakened.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

Under 31 CFR 1010.430(a)-(d), 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 March 30, 2017, FinCEN published in the Federal Register a notice of intent to renew, without change, the current collection (See 82 FR 15790). FinCEN received one response with a general comment that provided the name and address of an LLC in Indianapolis, IN, with no other information or comment. No action is required.

9. Payments and Gifts.

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

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.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

Frequency: As required.

Estimated Number of Respondents: 28,163

Estimated Annual Responses: 28,163 (one per financial institution)

We estimate an average of two (2) burden hours per response on an annual basis.

28,163 responses X 2 hours per response = 56,326 burden hours.

13. Estimated Annual Cost to Respondents for Hour Burdens.

56,326 hours X \$24.90³ per hour = \$1,402,517

14. Estimated Annual Cost to the Federal Government.

This is a financial institution recordkeeping requirement only.

There is no cost to the government.

15. Reason for Change in Burden.

There is no change in burden.

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

No information will be tabulated or 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 to Certification for Paperwork Reduction Act Submission..

There are no exceptions to the certification statement.

³ Bureau of Labor Statistics, U.S. Department of Labor, *Employer Costs for Employee Compensation*, March 2017, Table 9 (Private industry, goods-producing and service-providing industries, by occupational group), All Workers in Private Industry – Office and Administrative Support, <https://www.bls.gov/news.release/ecec.t09.htm>