

Supporting Statement
OMB Control Number 1506-0022

Customer Identification Program for Futures Commission Merchants and Introducing Brokers in Commodities

1. Circumstances necessitating collection of information.

The statute generally referred to as the “Bank Secrecy Act” (“BSA”), 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, among other things, 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 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 (“FinCEN”).

Section 326 of the USA PATRIOT Act added a new subsection (l) to 31 U.S.C. 5318 of the BSA. Pursuant to section 326, FinCEN issued joint regulations with the Commodity Futures Trading Commission that require futures commission merchants and introducing brokers in commodities to establish a written customer identification program and to maintain records related to verifying the identity of customers. *See* 31 CFR 1026.220. Under the customer identification program regulations, the minimum requirements include: 1) implementation of a written customer identification program appropriate for the financial institution’s size and type of business; 2) identity verification procedures; 3) recordkeeping; 4) comparison with government lists; and 5) customer notice.

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 commodities in an effort to prevent and detect money laundering and the financing of terrorism. The information on the customer’s identification maintained by futures commission merchants and introducing brokers in commodities is made available to appropriate government authorities only upon request.

3. Use of improved information technology to reduce burden.

Futures commission merchants and introducing brokers in commodities are permitted to automate their systems 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 (“USA PATRIOT Act”), P.L. 107-56.

There is no similar information available; thus, there is no duplication.

5. Methods to minimize burden on small businesses or other small entities.

All futures commission merchants and introducing brokers in commodities are required to document the identity of their customers and are permitted to use the method most suitable based upon their assessment of risk as it relates to their size and type of business.

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 to be inconsistent with guidelines in 5 CFR 1320.5(d)(2)

The information collection requires retention of customer records for five years (31 CFR 1010.430(d)) to permit use by law enforcement agencies. This retention period is necessary to substantiate violations that have occurred within the 5-year statute of limitations for such violations.

8. Consultation with individuals outside of the agency on availability of data, frequency of collection, clarity of instructions and forms, and data elements.

On September 11, 2018, FinCEN issued a notice and request for comment concerning the customer identification programs for futures commission merchants and introducing brokers in commodities (See 83 FR 46015). One anonymous comment was received; the comment did not address the subject of the information collection.

9. Explanation of decision to provide any payment or gift to respondents.

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.

There are no questions of a sensitive nature in the collection of information. Any personally identifiable information collected under the BSA is strictly controlled as outlined in FinCEN's Systems of Records Notice. See <https://www.gpo.gov/fdsys/pkg/FR-2014-04-14/pdf/2014-08254.pdf>.

12 & 13. Estimated burden & cost of information collection.

- Estimated Number of Respondents: 1,228.²
- Estimated Average Annual Recordkeeping Burden per Respondent: 10 hours.³
- Estimated Average Annual Disclosure Burden per Respondent: 1 hour.
- Estimated Total Annual Respondent Burden: 13,508.⁴
- Estimated Burden Cost: 13,508 hours X \$63.53 per hour = \$ 858,163.24.⁵

Information Collection	# of Respondents	Annual # of Responses per Respondent	Total Responses	Hours per Response	Total Hours	Labor Cost per Hour	Total Labor Costs
CIP Programs	1,228	1	1,228	11	13,508	\$63.53	\$ 858,163.24
TOTAL			1,228		13,508		\$ 858,163.24

There are no non-labor costs associated with this collection of information.

14. Estimated annual cost to the Federal government.

The Federal government requires reporting of this information only upon request.

15. Reasons for change in burden.

Reduction in the number of futures commission merchants and introducing brokers in commodities.

16. Plans for tabulation, statistical analysis, and publication

The information will not be tabulated or compiled for publication.

17. Request not to display the OMB expiration date.

Not applicable.

18. Exceptions to the certification statement.

² According to the National Futures Association, as of August 2018, there are currently 1,164 registered introducing brokers in commodities and 64 futures commission merchants.

³ FinCEN did not receive comments on the previous estimate of 10 hours of annual recordkeeping burden and 1 hour of annual disclosure burden per respondent.

⁴ 1,228 respondents multiplied by 11 hours equals 13,508 hours.

⁵ The above Average Hourly Wage Rate is calculated from the May 2017 Bureau of Labor Statistics average hourly wage for "13-2061 Financial Examiners" of \$44.12, plus an additional 44% for benefits to produce a fully-loaded rate of \$63.53.

There are no exceptions to the certification statement.