

Supporting Statement
OMB Control Number 1506-0026

Customer Identification Programs for Banks

1. Circumstances necessitating collection of information.

The Financial Crimes Enforcement Network (“FinCEN”) exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001¹ (“USA PATRIOT Act”) and other legislation. This legislative framework is commonly referred to as the “Bank Secrecy Act” (“BSA”).² The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.³ Pursuant to this authority, FinCEN may issue regulations requiring financial institutions to keep records and file reports that “have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”⁴

Section 326 of the USA PATRIOT Act added subsection (l) to 31 U.S.C. 5318 of the BSA. Pursuant to section 326, FinCEN issued joint regulations with the federal bank regulatory agencies that require banks, savings associations, credit unions, and certain non-federally regulated banks to establish a written customer identification program and to maintain records related to verifying the identity of customers.⁵ Under the customer identification program (“CIP”) 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.

FinCEN is requesting a revision of the information collection associated with regulations covering the CIP requirements. FinCEN is issuing this statement to support of the request for OMB approval of an information collection with respect to the final rule that will require certain banks that lack a Federal functional regulator to comply with the CIP requirements, among other things. This statement adds the estimated burden hours increase for this OMB control number, as a result of the final rule. The increase in burden hours is being added to the existing OMB approved burden hours for this control number as reflected in this supporting statement.⁶

¹ Public Law 107-56.

² The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR Chapter X. See 31 CFR 1010.100(e).

³ Treasury Order 180-01 (January 14, 2020).

⁴ 31 U.S.C. 5311.

⁵ See 31 CFR 1020.220.

⁶ FinCEN issued a Federal Register notice on August 13, 2020 to renew all of the OMB control numbers associated with the CIP regulations, including OMB control number 1506-0026 (the “2020 Notice”). The 2020 Notice requests comments from the public until October 13, 2020. The 2020 Notice proposes to renew without change the currently approved information collections, proposes for review and comment a renewal of the portion of the Paperwork Reduction Act (“PRA”) burden that has been subject to notice and comment in the past, and proposes for review and comment a future expansion of the scope of the PRA burden. Following the close of the comment period, FinCEN

On September 14, 2020, FinCEN issued a final rule implementing sections 352, 326 and 312 of the USA PATRIOT Act and removing the anti-money laundering (“AML”) program exemption for banks that lack a Federal functional regulator, including, but not limited to, private banks, non-federally insured credit unions, and certain trust companies (the “Final Rule”).⁷ The Final Rule requires minimum standards for AML programs for banks without a Federal functional regulator to ensure that all banks, regardless of whether they are subject to Federal regulation and oversight, are required to establish and implement AML programs, and extends CIP requirements and beneficial ownership requirements to those banks not already subject to these requirements.

2. Method of collection and use of data.

The information will be used to verify the identity of persons seeking to open accounts at banks, savings associations, credit unions, and banks without a Federal functional regulator, in an effort to prevent and detect money laundering and the financing of terrorism. The information on the customer’s identification maintained by banks, savings associations, credit unions, and banks without a Federal functional regulator is made available to appropriate government authorities only upon request. Compliance with these requirements will be reviewed by Federal agencies during the course of BSA examinations.

3. Use of improved information technology to reduce burden.

Banks, savings associations, credit unions, and banks without a Federal functional regulator are permitted to automate their systems 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 banks, savings associations, credit unions, and banks without a Federal functional regulator 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.

will issue a new supporting statement for OMB control number 1506-0026, reflecting the burden estimates proposed in 2020. See 85 FR 49425 (Aug. 13 2020).

⁷ 85 FR 57129 (September 14, 2020).

7. Special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

Under 31 CFR 1010.430(d), all records that are required to be retained by 31 CFR Chapter X must be retained for a period of five years. Records must be kept for five years because such records may relate to substantive violations of law that are subject to statutes of limitation longer than three 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 25, 2016, FinCEN issued a notice of proposed rulemaking (“NPRM”) proposing to amend certain definitions and to amend the AML, CIP, and beneficial ownership regulations to include coverage for banks lacking a Federal functional regulator.⁸

The comment period on the NPRM ended on October 24, 2016. FinCEN received eight comments. Comments were submitted by one anonymous source, three industry representatives, and four trade associations. FinCEN reviewed and considered all the comments to the extent they addressed aspects of the NPRM. All the comments supported the issuance of the Final Rule. The Final Rule adopts the proposal in its entirety, but establishes a later date by which affected banks must be in compliance. One commenter requested a two-year implementation period. Another suggested an implementation date in May 2018, to coincide with that the implementation date of the beneficial ownership requirements. A third commenter suggested an implementation period of six months to a year from the date of publication of the Final Rule, and a fourth commenter suggested a minimum of six months.

The proposals set forth in the NPRM were adopted largely without change in the Final Rule. As FinCEN emphasized in the Final Rule, banks lacking a Federal functional regulator are already obligated to comply with a number of BSA regulations. In addition, banks lacking a Federal functional regulator generally are required by state banking regulation and guidance to have policies, management oversight, personnel training, and internal compliance review and various procedures and systems in place to comply with regulation and guidance. Even banks not subject to these state regulatory requirements must develop such policies and procedures to properly function and comply with their BSA obligations and state banking regulations. FinCEN views the existence of such policies and procedures as minimizing the amount of time needed to prepare for implementation of the Final Rule’s requirements. Accordingly, FinCEN does not expect the transition to comply with the Final Rule to be unreasonably difficult or costly, and does not believe a two-year implementation period is needed or warranted. However, in light of these comments, FinCEN has determined that it would be appropriate to provide affected banks more time to comply with the Final Rule. Banks lacking a Federal functional regulator, therefore, will have 180 days from the day the Final Rule is published to be in compliance. FinCEN believes that this time frame is reasonable and adequate to ensure compliance with these requirements, given the framework that these banks are expected to already have in place.

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

⁸ See 81 FR 58425 (Aug. 25, 2016).

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: 16,001.⁹
- Estimated Average Annual Recordkeeping Burden per Existing Respondent as of 2017: 10 hours.¹⁰
- Estimated Average Annual Disclosure Burden per Existing Respondent as of 2017 and per Respondent Added by the Final Rule: 1 hour.¹¹
- Estimated Average Annual Burden for CIP Verification per Respondent Added by the Final Rule: 62.5 hours.¹²

⁹ In the 2017 renewal of OMB control number 1506-0026, the estimated number of respondents was 15,960. This number was a total of the institutions represented in the 2017 annual reports of the following regulators: the National Credit Union Administration reported 5,573 institutions, the Federal Reserve reported 5,180 institutions, the Federal Deposit Insurance Corporation reported 3,636 institutions, the Office of the Comptroller of the Currency reported 1,446 institutions. In addition, a report from the Government Accountability Office indicated that approximately 125 credit unions were insured privately, for a total of 15,960 institutions. The Final Rule adds 41 banks lacking a Federal functional regulator that will be required to implement CIP requirements for the first time (15,960 + 41=16,001).

¹⁰ In the 2017 renewal of OMB control number 1506-0026, FinCEN estimated that it would take each respondent 10 hours to update and maintain a CIP program.

¹¹ In the 2017 renewal of OMB control number 1506-0026, FinCEN estimated that it would take each respondent 1 hour to disclose CIP requirements to customers. In the Final Rule, FinCEN also estimated that it would take each financial institution added by the Final Rule 1 hour to disclose CIP requirements to customers.

¹² In the Final Rule, FinCEN estimated that, on average, small financial institutions, such as those covered by the Final Rule, will open approximately 3 new accounts per business day. There are 250 business days per year. (41 financial institutions × 3 accounts per day × 250 business days = 30,750 records per year). In past PRA burden analyses, FinCEN estimated that the burden to collect account information as a result of CIP requirements for other types of financial institutions was 2 minutes per new account. However, because CIP is a new regulatory requirement for the financial institutions added by the Final Rule, FinCEN conservatively estimated that the time it takes to collect and document identification and verification information for purposes of CIP is 5 minutes per new account opened. (30,750 records on new accounts × 5 minutes per account and converted to hours = 2,563 annual burden hours). The burden per financial institution added by the Final Rule is 62.5 hours (2,563 hours divided by 41 financial institutions equals 62.5 hours). Note that FinCEN did not account for CIP verification in the 2017 renewal of OMB control number 1506-0026. In the 2020 Notice, FinCEN clarified that in the future, FinCEN intends to add an annual burden calculation reflecting the burden of CIP verification for all financial institutions with CIP

- Estimated Total Annual Respondent Burden: 178,205 hours.¹³
- Estimated Burden Cost: 178,205 hours X \$49.80 per hour = \$8,874,609.¹⁴

Information Collection	Number of Respondents	Annual Number of Responses per Respondent	Total Responses	Hours per Response	Total Hours
Update and maintain CIP for respondents as of 2017	15,960	1	15,960	10	159,600
Implement CIP for respondents added by the Final Rule	41	1	41	1	41
Provide customer notification for respondents as of 2017 and respondents added by the Final Rule	16,001	1	16,001	1	16,001
CIP identification verification for respondents added by the Final Rule	41	750	30,750	5 minutes	2,563
TOTAL					178,205

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.

The increase in burden hours is a result of the Final Rule, which requires that approximately 41 banks that lack a Federal functional regulator will be required to implement CIP requirements.

regulatory requirements.

¹³ See the table below for the calculation of the total annual respondent burden hours.

¹⁴ U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. The most recent data from the BLS corresponds to May 2019. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at <https://www.bls.gov/news.release/eccec.nr0.htm>. The ratio between benefits and wages for financial activities is \$15.95 (hourly benefits)/\$32.05 (hourly wages) = 0.50. The benefit factor is 1 plus the benefit/wages ratio, or 1.50. Multiplying the hourly wage by the benefit factor produces the fully-loaded hourly wage per position. The median hourly wage for a Compliance Officer is \$33.20 (\$33.20 x 1.50 = \$49.80).

The additional burden calculations as outlined in the preamble of the Final Rule are as follows:

Description of Recordkeepers: Banks that lack a Federal functional regulator, such as non-federally insured state-chartered banks and savings and loan or building and loan associations, and international banking entities.¹⁵

1. Implementing written CIP procedures

Estimated Number of Recordkeepers: 41 financial institutions.¹⁶

Estimated Annual Records: 41 written CIP programs.

Estimated Annual Burden Hours: 41 hours.¹⁷

2. Recording information required to identify and verify new customers

Estimated Number of Recordkeepers: 41 financial institutions.

Estimated Annual Records: 30,750 records on new accounts.¹⁸

Estimated Annual Burden Hours: 2,563 hours.¹⁹

3. Providing customers notice of identification requirements

Estimated Number of Recordkeepers: 41 financial institutions.

Estimated Annual Records: 41 disclosure notices.

Estimated Annual Burden Hours: 41 hours.²⁰

4. Total annual burden applicable to CIP requirements

¹⁵ FinCEN has previously implemented CIP requirements for non-Federally insured credit unions and trust companies, and private banks that did not have a Federal functional regulator. See 31 CFR 1020.220. For that reason, the CIP requirements in the Final Rule only apply to the non-federally insured state-chartered banks and savings and loan or building and loan associations and international banking entities.

¹⁶ Approximately 12 non-federally insured state-chartered banks and savings and loan or building and loan associations and 29 international banking entities depository institutions will be required to implement CIP requirements as a result of the Final Rule.

¹⁷ The estimated average burden associated with the development of written CIP procedures is one hour per recordkeeper annually. Although this is a new requirement for some banks lacking a Federal functional regulator, they are already obligated to comply with a number of BSA regulations and state banking regulations. These banks likely maintain procedures to comply with such BSA and state banking regulations. Further, certain identity verification documents for new customers are collected as standard practice for the financial industry. For that reason, FinCEN estimates that the burden associated with the development of written CIP procedures is one hour because it will incorporate existing applicable procedures.

¹⁸ FinCEN estimates that, on average, small financial institutions, such as those covered by the Final Rule, will open approximately 3 new accounts per business day. There are 250 business days per year. (41 financial institutions × 3 accounts per day × 250 business days = 30,750 records per year).

¹⁹ In past PRA burden analyses, FinCEN estimated that the burden to collect account information as a result of CIP requirements for other types of financial institutions was 2 minutes per new account. However, because CIP is a new regulatory requirement for the financial institutions added by the Final Rule, FinCEN will conservatively estimate that the time it takes to collect and document identification and verification information for purposes of CIP is 5 minutes per new account opened. (30,750 records on new accounts × 5 minutes per account and converted to hours = 2,563 annual burden hours).

²⁰ FinCEN estimates that it will take each financial institutions added by the Final Rule 1 hour to draft and post a CIP disclosure notification for customers (41 financial institutions × 1 hour = 41 hours).

Estimated Total Annual Burden Hours for CIP Requirements: 2,645 hours (41 + 2,563 + 41).

- 41 hours – Implementing written CIP procedures.
- 2,563 hours – Recording information required to identify and verify new customers.
- 41 hours – Providing customers notice of identification requirements.

This burden is added to the existing burden listed under OMB control number 1506-0026 currently titled “Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks.” The new title for this control number will be “Customer Identification Program Requirements for Banks.” The new total estimated annual burden for this control number is 178,205 hours.²¹

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.

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 to the certification statement.

There are no exceptions to the certification statement.

²¹ The current annual burden hours estimate for OMB control number 1506-0026 is 175,560, and 2,645 burden hours will be added to this control number as a result of this rulemaking (175,560 + 2,645 = 178,205).