

Supplemental Statement
OMB Control Number 1506-0034

Customer Information Programs for Broker or Dealers in Securities

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 Securities and Exchange Commission that require broker or dealers in securities 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.

2. Method of collection and use of data.

The information will be used to verify the identity of persons seeking to open accounts at brokers or dealers in securities, in an effort to prevent and detect money laundering and the financing of terrorism. The information on the customer’s identification maintained by brokers or dealers in securities 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.

Brokers or dealers in securities are permitted to automate their systems to meet their requirements. There is no specific government mandate to do so.

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 31 CFR 1023.220.

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 broker or dealers in securities 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).

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, and clarity of instructions and forms, and data elements.

The 60-day notice was published on August 13, 2020.⁶ The notice requested public comments on the proposed renewal, without change, of currently approved information collections relating to CIP regulatory requirements for certain financial institutions, including brokers or dealers in securities. Although no changes were proposed to the information collections themselves, the notice proposed for review and comment (a) a renewal of the portion of the Paperwork Reduction Act (“PRA”) burden that has been subject to notice and comment in the past (the “traditional annual PRA burden”), and (b) an expansion of the scope of the PRA burden in the future (the “supplemental annual PRA burden”).

As explained in the notice, FinCEN does not have the necessary information to provide a tentative estimate of these supplemental annual PRA hourly burden and cost within the current notice. FinCEN also recognizes that it does not have all the necessary information to precisely estimate the traditional annual PRA burden. For that reason, FinCEN is relying on estimates used in prior renewals of OMB control numbers and applicable regulations. FinCEN further recognizes that after receiving public comments, the burden and cost estimates for the traditional annual PRA burden may vary significantly. FinCEN intends to conduct more granular studies of the actions included in the proposed scope of a supplemental annual PRA burden in the near future, to arrive at accurate estimates

⁶ 85 FR 49425 at <https://www.federalregister.gov/documents/2020/08/13/2020-17694/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of>.

of net BSA hourly burden and cost.⁷ The data obtained in these studies also may result in a significant variation in the estimated traditional annual PRA hourly burden.

FinCEN received six public comments in response to this notice. Commenters were generally supportive of FinCEN's effort to more accurately estimate the costs and burdens associated with the CIP regulatory requirements. One commenter provided an overview of the resources its institution dedicates to CIP and an estimate of the annual cost of complying with specific elements of CIP, in an effort to provide relevant information to assist FinCEN with calculating an estimate of the supplemental annual PRA hourly burden and cost.

A few commenters recommended that FinCEN survey industry to develop a representative sample of all types and sizes of financial institutions from all geographies to develop a more precise calculation of the estimated resource and monetary cost of compliance with CIP requirements.

Another commenter recommended that financial institutions utilize geolocation technology to verify the identity of customers and authenticate digital transactions.

FinCEN appreciates the recommendations and intends to use that information as part of a larger project FinCEN is undertaking to better understand the PRA hourly burden and cost of the BSA as a whole.

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.

⁷ Net hourly burden and cost are the burden and cost a financial institution incurs to comply with requirements that are unique to the BSA, and that do not support any other business purpose or regulatory obligation of the financial institution. Burden for purposes of the PRA does not include the time and financial resources needed to comply with an information collection if the time and resources are for things a business (or other person) does in the ordinary course of its activities if the agency demonstrates that the recordkeeping activities needed to comply are usual and customary. 5 CFR 1320.3(b)(2).

- Estimated Number of Respondents: 3,640⁸
- Estimated Total Annual Responses: 9,000,000.⁹
- Estimated Total Annual Burden Hours: 340,040 hours.¹⁰
- Estimated Total Annual Cost:

Board Approval of CIP: 3,640 hours¹¹ x \$133 per hour¹² = \$484,120

Maintenance of the CIP: 32,760 hours¹³ x \$48 per hour¹⁴ = \$1,572,480.

Notification to Customers of CIP Requirements: 3,640 hours x \$32 per hour¹⁵ = \$116,480.

Implementation of CIP: 300,000 hours x \$33 per hour¹⁶ = \$9,900,000

Total: \$12,073,080.

Hourly burden associated with maintaining and updating the CIP and customer notification for brokers or dealers in securities

Type of financial	Number of	Time per financial	Total hourly burden
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⁸ According to the Securities and Exchange Commission (SEC), there were 3,640 brokers or dealers in securities registered with the SEC, as of March 31, 2020.

⁹ According to the SEC, there were approximately 9,000,000 new accounts opened by broker or dealers in securities in 2017, based on forms filed with the SEC. The SEC provided this estimate to FinCEN for the last renewal of OMB control number 1506-0034 (83 FR 46012, Sept. 11, 2018). FinCEN was unable to obtain a more recent estimate.

¹⁰ The total annual burden is the summation of the total hourly burden for maintenance of the CIP, notification to customers of the CIP requirements, and implementation of the identity verification, recordkeeping, and consulting government lists as outlined in the tables (36,400 + 3,640 + 300,000 = 340,040).

¹¹ As explained in the notice, the ten hours required for maintaining and updating a written CIP is broken down as follows: one hour per broker or dealer in securities for senior management approval of the written CIP (3,640 brokers or dealers in securities multiplied by one hour equals 3,640 hours in total) at \$133.00 an hour; and nine hours per broker or dealer in securities for maintaining and updating the written CIP (3,640 multiplied by nine hours equals 32,760 hours in total) at \$48.00 an hour.

¹² See 85 FR 49425, 49428 (Aug. 13, 2020) for the calculation of the weighted average hourly cost of obtaining board approval of a CIP for all covered financial institutions.

¹³ See *supra* note 11.

¹⁴ See 85 FR 49425, 49428 (Aug. 13, 2020) for the calculation of the weighted average hourly cost of maintaining and updating the CIP for all covered financial institutions.

¹⁵ See 85 FR 49425, 49428 (Aug. 13, 2020) for the calculation of the weighted average hourly cost of providing customer notification of CIP for all covered financial institutions.

¹⁶ See 85 FR 49425, 49429 (Aug. 13, 2020) for the calculation of the weighted average hourly cost of obtaining and verifying customers' identifying information for brokers dealers in securities and mutual funds.

institution	financial institutions	institution			
		Maintenance	Notification	Maintenance	Notification
Brokers or dealers in securities	3,640	10 hours	1 hour	36,400	3,640
Totals	3,640			36,400	3,640

Hourly burden associated with implementation of the identity verification, recordkeeping, and consulting government lists requirements for brokers or dealers in securities.

Type of financial institution	Number of financial institutions	New accounts per year	Time per new account	Total hourly burden *
Brokers or dealers in securities	3,640	9,000,000	2 minutes	300,000
Totals	3,640			300,000

* New accounts per year times two minutes, divided by 60 minutes per hour

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

14. Estimated annual cost to the Federal government.

There is no cost to the government; this is a recordkeeping requirement only.

15. Reason for change in burden.

The estimated total annual burden hours increased from 300,000 hours since the last control number renewal in 2018 to 340,040 hours. The estimated number of new accounts opened per year remained at 9,000,000 with an estimate of 2 minutes per account to collect CIP information. The increase in burden is a result of the burden estimate of 10 hours per broker or dealer in securities to update and maintain the CIP, and one hour per broker or dealer in securities to provide customers with notification of the CIP requirements, despite the reduction in the number of brokers or dealers in securities from 3,839 in 2018 to 3,640, based on 2020 data.

16. Plans for tabulation, statistical analysis, and publication.

This collection of information will not be published.

17. Request not to display the expiration date of the 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 to the certification statement.

There are no exceptions to the certification statement.