

Supporting Statement
OMB Control Number 1506-0051

Anti-Money Laundering Programs for Casinos.

1. Circumstances necessitating collection of information.

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of 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 2001 (USA PATRIOT Act) (Public Law 107–56) and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act) (Division F of Public Law 116-283). The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5336, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA 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 anti-money laundering (AML) programs and compliance procedures.¹ Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.²

Section 352 of the USA PATRIOT Act added subsection (h) to 31 U.S.C. 5318 of the BSA. Section 352 mandates that financial institutions establish AML programs in order to guard against money laundering. Such AML programs must include, at a minimum, the following: (a) the development of internal policies, procedures, and controls, (b) the designation of a compliance officer, (c) an ongoing employee training program, and (d) an independent audit function to test programs. Pursuant to section 352, FinCEN issued a regulation requiring casinos to develop and implement written AML programs.³ Among other things, the casino AML program regulations require that a casino must implement procedures for obtaining and verifying customer identifying information, detecting the occurrence of transactions that must be reported as suspicious, and making and retaining specific records, including a copy of its written AML program.

2. Method of collection and use of data.

The collection of information is not reported to the Federal government. Instead, casinos are required to document and maintain records reflecting the development and

¹ Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism. Section 6101 of the Anti-Money Laundering Act of 2020 added language further expanding the scope of the BSA but did not disturb these longstanding purposes.

² Treasury Order 180-01 (re-affirmed Jan. 14, 2020).

³ 31 CFR 1021.210. Card clubs are included in the casino AML program regulations, and any reference to casinos used in BSA regulations includes card clubs, unless specifically noted. See 31 CFR 1010.100(t)(5)(iii).

implementation of a written AML program. AML programs help to ensure that casinos are not used to facilitate money laundering, other financial crimes, or terrorist financing. AML programs also help casinos to detect transactions that must be reported or recorded under other BSA requirements. The AML program will be reviewed by regulatory agencies during the course of BSA examinations.

3. Use of improved information technology to reduce burden.

Casinos are not required to automate their systems to meet AML requirements, but 31 CFR 1021.210(b)(2)(vi) provides that, if the casino has automated data processing systems, it must use automated programs to aid in ensuring compliance.

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.

Pursuant to 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. The five year retention period ensures that law enforcement will have access to records for a reasonable period of time and allows for verification of compliance with specific requirements.

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

The 60-day notice was published on December 22, 2020.⁴ The notice requested public comments on the proposed renewal, without change, of currently approved information collections relating to AML program requirements for casinos. 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 of 1995 (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 “future annual PRA burden”).

⁴ 85 FR 83676 at <https://www.federalregister.gov/documents/2020/12/22/2020-28255/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of>.

FinCEN received two public comments in connection with this notice. One commenter inquired about what the AML program requirements are, whether AML program records are useful to law enforcement, and whether there are any privacy concerns with the data in these records. The other commenter recommended that all casinos be investigated for money laundering and other criminal activity.

These requests in connection with applicable regulations will be taken into account in FinCEN's review of existing regulations, consistent with Treasury's 2011 Plan for Retrospective Analysis of Existing Rules, and as part of the formal review of regulations implementing the BSA and BSA-related guidance, as required by Section 6216 of the AML Act. FinCEN will continue to evaluate ways to clarify the AML program requirements.

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(i) may be made available to FinCEN and other appropriate agencies.

11. Justification of sensitive questions.

Information retained under the regulations implementing the BSA may be made available to FinCEN and appropriate government agencies upon their request or as part of an examination or investigation.

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

Frequency: As required.

Estimated Number of Respondents: 993

Type of Casino	Number of Casinos
Casino	466 ⁵
Tribal Casino	527 ⁶
Total number of casinos	993⁷

Estimated Total Annual Burden Hours: 99,466.

Burden associated with each portion of the traditional annual PRA estimate

Action	Instances per year	Time per instance	Number of Casinos	Total hourly burden
A. Maintaining and updating the written AML program	1 per casino	1 hour	993	993
B. Storing the written AML program	1 per casino	5 minutes	993	83*
C. Producing the AML program upon request	1 per casino	5 minutes	993	83*
D. Ongoing compliance with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi)	1 per casino	99 hours	993	98,307
Total Hourly Burden				99,466

*82.75 rounded to 83

Estimated Total Annual Cost: \$3,297,273.

⁵ According to numbers provided to FinCEN by the American Gaming Association (AGA), there are 466 commercial casinos as of October 20, 2020.

⁶ According to numbers provided to FinCEN by the AGA, there are 527 tribal properties as of October 20, 2020.

⁷ According to numbers provided to FinCEN by the AGA, the total number of casinos includes 223 commercial and tribal casinos in Nevada as of October 20, 2020. This number does not include restricted locations, *i.e.*, those with 15 slot machines or fewer.

Total cost of traditional annual PRA burden

Steps	Hourly Burden	Hourly Cost	Total Cost
A. Maintaining and updating the written AML program	993	\$48.00 ⁸	\$47,664
B. Storing the written AML program	83*	\$33.00 ⁹	\$2,739
C. Producing the written AML program upon request	83*	\$33.00 ¹⁰	\$2,739
D. Ongoing compliance with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi)	98,307	\$33.00 ¹¹	\$3,244,131
Total Cost			\$3,297,273

*82.75 rounded to 83

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 Federal government; this is a recordkeeping requirement only.

15. Reason for change in burden.

The estimated total annual burden hours increased from 92,500 hours in 2017 to 99,466 hours in 2020. The estimated burden for casinos to implement and maintain an AML compliance program remained at approximately 100 hours per casino, with the addition of 5 minutes to store the written AML program and 5 minutes to produce the written program upon request. The increase in burden is due to a combination of the increase in burden of 10 minutes per casino, and an increase in the number of casinos from 925 in 2017 to 993 in 2020.

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.

⁸ See 85 FR 83676 (Dec. 22, 2020) for the weighted average hourly cost of maintaining and updating the written AML program.

⁹ See 85 FR 83676 (Dec. 22, 2020) for the weighted average hourly cost of storing the written AML program.

¹⁰ See 85 FR 83676 (Dec. 22, 2020) for the weighted average hourly cost of producing the written AML program upon request.

¹¹ See 85 FR 83676 (Dec. 22, 2020) for the weighted average hourly cost of complying with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi).

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.