

Supporting Statement
OMB Control Number 1506-0057

Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders, and Traveler's Checks (31 CFR 1010.415).

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 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

The BSA prohibits financial institutions from issuing any “bank check, cashier’s check, traveler’s check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of \$3,000 or more” unless the individual either has a verified transaction account with the financial institution, or furnishes the financial institution with the information required by regulations and that information is verified and recorded by the financial institution; financial institutions must record the method of account verification or the information required to be furnished.³ To implement these requirements, FinCEN issued a regulation requiring financial institutions to maintain records of the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks.⁴ The regulation on its face applies to all financial institutions as

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 AML Act 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 U.S.C. 5325.

⁴ 31 CFR 1010.415. This regulation was originally published in 1990 as 31 CFR 103.29. See Amendment to the BSA Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders and Traveler’s Checks, 55 FR 20139 (May 15, 1990). It was modified slightly in 1994. See Amendments to the BSA Regulations Relating to identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders, and Traveler’s Checks, 59 FR 52250 (October 17, 1994).

defined in 31 CFR 1010.100(t). However, as a practical matter banks and money services businesses (MSBs) are the types of financial institutions most likely to be issuing or selling bank checks and drafts, cashier's checks, money orders, and traveler's checks.

Under 31 CFR 1010.415, financial institutions are required to maintain records of certain information related to the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves currency between \$3,000-\$10,000, inclusive, to any individual purchaser of one or more of these instruments. Under 31 CFR 1010.415(a)(1)(i), if the purchaser has a deposit account with the financial institution, the financial institution is required to maintain records of the: (A) purchaser's name; (B) date of purchase; (C) type(s) of instrument(s) purchased; (D) serial number(s) of each of the instrument(s) purchased; and (E) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(1)(ii), the financial institution must also verify that the individual is a deposit account holder or must verify the individual's identity.⁵

Under 31 CFR 1010.415(a)(2)(i), if the purchaser does not have a deposit account with the financial institution, the financial institution must maintain a record of the: (A) name and address, (B) (social security of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number; (C) the date of birth of the purchaser; (D) the date of the purchase; (E) the type(s) of instrument(s) purchased; (F) the serial number(s) of the instrument(s) purchased; and (G) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(2)(ii), the financial institution must also verify the purchaser's name and address by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must record the specific identifying information.

Under 31 CFR 1010.415(b), financial institutions must treat contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more as one purchase. Multiple purchases during one business day totaling \$3,000 or more must be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

Under 31 CFR 1010.415(c), financial institutions must retain all required records for a period of five years and make those records available to the Secretary upon request at any time.

⁵ Verification may be either through a signature card or other file or record at the financial institution provided the deposit account holder's name and address were verified previously and that information was recorded on the signature card or other file or record; or by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser. If the deposit account holder's identity has not been verified previously, the financial institution may only verify the deposit account holder's identity by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must also record the specific identifying information (e.g., State of issuance and number of driver's license).

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 document and maintain records of information involving issuance and sales of bank checks, cashier's checks, money orders, and traveler's checks to any individual purchasers of these instruments with currency in the amount of \$3,000-\$10,000. These recordkeeping requirements are intended to help law enforcement and regulatory authorities detect, investigate, and prosecute money laundering, terrorist financing, and other financial crimes by preserving an information trail about persons purchasing these widely accepted monetary instruments from financial institutions. Compliance with these requirements will be reviewed by regulatory agencies during the course of BSA examinations, and the retained records will be made available only upon request to other appropriate agencies in accordance with applicable legal requirements.

Currently there is no reporting requirement that would trigger the obligations under the Paperwork Reduction Act of 1995 (PRA).

3. Use of improved information technology to reduce burden.

Financial institutions are permitted to automate their AML programs to meet their requirements, including the requirement to collect information related to the issuance and sales of bank checks, cashier's checks, money orders, and traveler's checks. There is no specific government mandate to do so. The collection of information is not reported to the Federal government. The required information may be maintained in any format, including copies of the monetary instruments.

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.

Although the regulation on its face applies to all financial institutions as defined in 31 CFR 1010.100(t), as a practical matter, banks and money services businesses (MSBs) are the types of financial institutions most likely to be issuing or selling bank checks and drafts, cashier's checks, money orders, and traveler's checks. When complying with these recordkeeping requirements, financial institutions are permitted to use the method most suitable based upon their assessment of risk as it relates to their size and type of business. FinCEN does not consider it possible to further reduce the burden for small businesses.

6. Consequences to the Federal government of not collecting the information.

The Federal government requires this information only upon request, in accordance with applicable legal authority. These recordkeeping requirements are

intended to help law enforcement and regulatory authorities detect, investigate, and prosecute money laundering and other financial crimes. Additionally, access to this information will allow financial institutions and government to take appropriate action, including tracing criminal proceeds, gathering additional evidence, and preventing money launderers and other criminal elements, who commonly purchase bank checks, cashier's checks, money orders, and traveler's checks for amounts under \$10,000, from using financial institutions to move funds and dispose of profits from illegal activity.

7. Special circumstances requiring data collection inconsistent with guidelines.

Pursuant to 31 CFR 1010.415(c), financial institutions must retain all required records of sales or issuance of bank checks and drafts, cashier's checks, money orders, and traveler's checks for a period of five years, and make those records available to the Secretary upon request. 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.

The 60-day notice was published on January 21, 2021.⁶ The notice requested public comments on the proposed renewal, without change, of currently approved information collections related to records of purchases of bank checks and drafts, cashier's checks, money orders, and traveler's checks (31 CFR 1010.415). 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 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"). FinCEN received no comments in response to the notice.

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.

The information collected under the regulations implementing the BSA may be made available to FinCEN and appropriate agencies upon their request or as part of an examination.

11. Justification of sensitive questions.

⁶ 86 FR 6411 at [https://www.federalregister.gov/documents/2021/01/21/2021-01187/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of-.](https://www.federalregister.gov/documents/2021/01/21/2021-01187/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of-) .

This is a recordkeeping requirement. Information collection requirements by covered financial institutions are mandated by the USA Patriot Act and the BSA, as amended.

12. Estimated annual hourly burden of information collection.

Frequency: As required.

Estimated Number of Respondents:

Type of Financial Institution	Number of Financial Institutions
Banks	11,161 ⁷
Issuers/Sellers of Money Orders	4,353 ⁸
Issuers/Sellers of Traveler's Checks	163 ⁹
Total Number of Financial Institutions	15,677

Estimate of Burden:

FinCEN continues to estimate the annual hourly burden of creating and maintaining records for the issuance or sale of bank checks and drafts, cashier's checks, money orders, or traveler's checks to individual purchasers when the sale involves currency between \$3,000-\$10,000, inclusive, at seven and a half hours per covered financial institution, irrespective of the volume of such transactions.

15,677 financial institutions multiplied by 7.5 hours results in a total annual hourly burden estimate of 117,579 hours.

13. Estimated total annual cost to respondents for hour burdens

Fully-loaded hourly wage by role and Bureau of Labor and Statistics (BLS) job

⁷ According to the Federal Deposit Insurance Corporation (FDIC) there were 5,103 FDIC-insured banks as of March 31, 2020. According to the Federal Reserve Board (FRB), there were 203 other entities supervised by the FRB, as of June 16, 2020, that fall within the definition of bank (20 Edge Act institutions, 15 agreement corporations (as defined in 12 CFR 28.2) and 168 foreign banking organizations). According to the National Credit Union Administration there were 5,236 federally regulated credit unions as of December 31, 2019. Approximately 297 state-chartered non-depository trust companies, 228 non-federally insured credit unions, 12 non-federally insured state-chartered banks and savings and loan or building and loan associations, 1 private bank, 52 international financial entities, and 29 international banking entities—all of which are required to implement a written AML program as a result of a final rule issued on September 15, 2020 (85 FR 57129)—are also required to keep the records described in this notice.

⁸ This number is derived from self-reported information in MSB registrations submitted to FinCEN. FinCEN's MSB registration database available at <https://www.fincen.gov/msb-state-selector>.

⁹ Id.

position¹⁰ for all financial institutions covered by this supporting statement:

Role	BLS-Code	BLS-Name	Median Hourly Wage	Benefit Factor	Fully-loaded Hourly Wage
Direct Supervision	13-1041	Compliance Officer	\$33.20	1.50	\$49.80
Clerical Work (research, review, and recordkeeping)	43-3099	Financial Clerk	\$20.40	1.50	\$30.60

FinCEN estimates that, *in general and on average*,¹¹ each role would spend different amounts of time on each portion of the traditional annual PRA burden. For verifying the identity of the purchaser and maintaining the recordkeeping requirement, the estimated cost of the hourly burden would be \$33.00 as set out below:

Direct Supervision		Clerical Work		Weighted Average Hourly Cost
% Time	Hourly Cost	% Time	Hourly Cost	
10%	\$4.98	90%	\$27.54	\$33.00*

(*) \$32.52 rounded to \$33.00

The total estimated cost of the traditional annual PRA burden is \$3,880,107, as set out below:

OMB Control Number	Hourly Burden	Hourly Cost	Total Cost
1506-0057	117,579	\$33	\$3,880,107

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.

¹⁰ The 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/ecec.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 each hourly wage by the benefit factor produces the fully-loaded hourly wage per position.

¹¹ By “in general,” FinCEN means without regard to outliers (e.g., financial institutions that conduct transactions that trigger the recordkeeping requirements described in this notice with complexities or volumes that are uncommonly higher or lower than those of the population at large). By “on average,” FinCEN means the mean of the distribution of each subset of the population.

15. Reason for change in burden.

The estimated total annual burden hours decreased by 339,171 hours from 456,750 hours in 2017 to 117,579 hours in 2020, although the annual hourly burden estimates (7.5 hours) per regulatory requirement remained the same as in 2017. The reduction in burden is a result of a decrease in the number of respondents from 60,900 in 2017 to 15,677 in 2020, based on additional FinCEN analysis which concluded that fewer financial institutions were affected by the requirements.

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.