

Supporting Statement
OMB Control Number 1506-0054
Additional Records to be Made and Retained by Casinos

1. Circumstances necessitating collection of information.

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign 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 (October 26, 2001), and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act).¹ The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1960, 31 U.S.C. 5311-5314 and 5316-5336, and includes notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury (the “Secretary”), *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.² The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.³

With respect to each deposit, account, or line of credit, 31 CFR 1021.410(a) requires a casino to secure and maintain a record of the name, permanent address (“address”), and social security number (SSN) of the person involved at the time the funds are deposited, the account is opened, or credit is extended.⁴ Where the deposit, account, or line of credit is in the name of two or more persons, the casino must secure the name, address, and SSN of each person having a financial interest in the deposit, account, or line of credit. The casino is required to verify the name and address of such person(s) at the time the deposit is made, the account is opened, or credit is extended, by the examination of a document as described in 31 CFR 1010.312.⁵ The specific identifying information relied upon must be recorded by the casino in the manner described in 31 CFR 1010.312.⁶ If a casino is unable to secure the required SSNs, the casino will not be deemed to be in violation of 31 CFR 1021.410 if the

¹ The AML Act was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).

² 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 amend these longstanding purposes.

³ Treasury Order 180-01.

⁴ References to “casinos” include both “casinos” and “card clubs,” as those terms are defined at 31 CFR § 1010.100(t)(5) and (6).

⁵ In October 2021, FinCEN granted limited exceptive relief to allow casinos and card clubs to use suitable non-documentary methods to verify the identity of online customers. See FIN-2021-R001, “Exceptive Relief for Casinos from Certain Customer Identity Verification Requirements,” (October 19, 2021), available at https://www.fincen.gov/sites/default/files/2021-10/Casino%20Exceptive%20Relief%20101921_0.pdf.

⁶ 31 CFR 1010.312 requires verification of identity by examination of a document generally accepted within the banking community as a means of identification when cashing checks for non-depositors. The document relied upon for verification must be recorded.

casino has made reasonable efforts to secure the SSNs and it maintains a list of the names and addresses of those persons from whom the casino was unable to obtain the SSNs. The casino must make the list available to the Secretary upon request. If a person is a nonresident alien, the casino is also required to record the person's passport number or a description of another government document used to verify his/her identity.

Under 31 CFR 1021.410(b), a casino must retain either the original or a copy of each of the following:

- A record of each time the casino receives funds for credit to or deposit into any person's account, including the name, address, and SSN of the person from whom the casino receives the funds, the date of receipt of the funds and the amount received. If the person from whom the funds were received is a non-resident alien, the casino is required to obtain and record the person's passport number or a description of another government document used to verify the person's identity;
- A record of each bookkeeping entry made to a customer's deposit or credit account with the casino;
- Each statement, ledger card, or other record of each deposit or credit account with the casino, showing each transaction in or with respect to a customer's account with the casino;
- A record of each extension of credit in excess of \$2,500, the terms and conditions of each such extension of credit, and repayments. The record must include the customer's name, address, SSN, and the date and amount of the transaction (including repayments). If the credit is extended to a non-resident alien, the casino must obtain and record the non-resident alien's passport number or a description of another government document used to verify identity;
- A record of each advice, request or instruction received or given by the casino with respect to a transaction involving a person, account, or place outside the United States. If the transaction is a transfer outside the United States on behalf of a third party, the record must include the third party's name, address, SSN, signature, and the date and amount of the transaction. If the transaction is a transfer received from outside the United States on behalf of a third party, the same records must be obtained with regard to the third party;
- Records prepared or received by the casino in the ordinary course of business that would be needed to reconstruct a person's deposit or credit account with the casino or that would be needed to trace a check deposited with the casino through the casino's records to the bank of deposit;
- All records, documents, or manuals required to be maintained by a casino under state and local laws or regulations, and regulations of any governing Indian tribe or tribal government;
- All records which are prepared or used by a casino to monitor a customer's gaming activity;
- A separate record containing a list of each transaction between the casino and its customers involving the following types of instruments having a face value of \$3,000 or more: (i) personal checks; (ii) business checks; (iii) official bank checks; (iv) cashier's checks; (v) third-party checks; (vi) promissory notes; (vii) traveler's checks; and (viii) money orders. The list must contain the time, date, and amount of the transaction; the

name and address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; all reference numbers (e.g., casino account number, personal check number, etc.); and the name or casino license number of the casino employee who conducted the transaction. A casino must place applicable transactions on the list in the chronological order in which they occur;

- A copy of the compliance program described in 31 CFR 1021.210(b);⁷ and
- For card clubs only,⁸ records of all currency transactions by customers, including, without limitation, records in the form of currency transaction logs and multiple currency transaction logs, and records of all activity at cages or similar facilities, including cage control logs.

Under 31 CFR 1021.410(c), casinos that input, store, or retain, in whole or in part, for any period of time, any record required to be maintained by 31 CFR 1010.410 or 31 CFR 1021.410 on computer disk, tape, or other machine-readable media must retain those records in the same format.⁹ All indexes, books, programs, record layouts, manuals, formats, instructions, file descriptions, and similar materials that would enable a person to readily access and review the records described in 31 CFR 1010.410 and 31 CFR 1021.410, and that are recorded, stored, or retained on computer disk, tape or other machine-readable media, must be retained for the period of time such records are required to be retained.¹⁰

2. Method of collection and use of data.

The collection of information described above is not reported to the Federal government. Instead, casinos are required to secure and maintain the documents described above for a period of five years.

The recordkeeping requirements help to ensure that casinos are not used to facilitate money laundering, terrorist financing, or other financial crimes. These records will be reviewed by regulatory agencies during the course of BSA examinations and made available only upon request to other appropriate agencies in accordance with applicable legal

⁷ 31 CFR 1021.410(b)(10) requires each casino to retain a copy of the casino's AML compliance program as described in 31 CFR 1021.210(b). The burden for casinos to comply with 31 CFR 1021.210 is accounted for and renewed with OMB control number 1506-0051. For that reason, FinCEN does not need to estimate burden in this notice related to 31 CFR 1021.410(b)(10). See 85 FR 83676, Dec. 22, 2020, for the most recent renewal of OMB control number 1506-0051.

⁸ 31 CFR 1010.100(t)(5)(iii) clarifies that any reference to casino in chapter X, other than in paragraph (t)(5) and (t)(6) of 31 CFR 1010.100, shall also include reference to a card club, unless the provision in question contains specific language varying its application to card clubs or excluding card clubs.

⁹ In addition to 31 CFR 1021.410, casinos are required to collect and retain information related to transmittals of funds pursuant to 31 CFR 1010.410. The burden for financial institutions to comply with 31 CFR 1010.410 is included in OMB control number 1506-0058. OMB control number 1506-0058 was renewed in 2021, following a notice and request for comment published in the Federal Register (See 85 FR 84105, Dec. 23, 2020). In the notice, FinCEN stipulated that although 31 CFR 1010.410 applies to all financial institutions, only certain financial institutions engage in the types of transactions described in 31 CFR 1010.410. Casino are one of the types of financial institutions that do not typically engage in the types of transactions described in 31 CFR 1010.410. Any similar type of transaction conducted by a casino is generally covered under 31 CFR 1021.410.

¹⁰ Pursuant to 31 CFR 1010.430(d), covered financial institutions, including casinos, are required to maintain records of certain financial transactions for a period of five years.

requirements.

3. Use of improved information technology to reduce burden.

Casinos 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 casinos are required to secure and maintain the records described in this statement and are permitted to use the method most suitable to their business.

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

The Federal government requires reporting of this information only upon request, in accordance with applicable legal authority.

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. 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 February 16, 2022.¹¹ The notice requested public comments on the proposed renewal, without change, of a currently approved information collection relating to regulations requiring additional records to be made and retained by casinos. In response to the notice, FinCEN received one comment, which noted that the regulatory requirements should not be revised because they are working well and are not burdensome.

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

No payments or gifts were made to respondents.

¹¹ Financial Crimes Enforcement Network, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Additional Records To Be Made and Retained by Casinos*, 87 FR 8935, (February 16, 2022), available at <https://www.federalregister.gov/documents/2022/02/16/2022-03260/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of>.

10. Assurance of confidentiality of responses.

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.

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. Estimated annually hourly burden.

Frequency: As required

Estimated Number of Respondents: 993

Table 1 – Breakdown of casinos covered by regulation, by type of casino

Type of Casino	Number of Casinos
Casino	466 ¹²
Tribal casino	527 ¹³
Total Number of Casinos	993 ¹⁴

Table 2 – Burden associated with each portion of the traditional annual Paperwork Reduction Act of 1995 (PRA) estimate as noted in the 60-day notice in the Federal Register

Action	Number of Casinos or Transactions (See Table 1)	Time	Total Hourly Burden
Complying with recordkeeping requirements under 31 CFR 1021.410(a) & (b) (1)-(9)	993	107.5 hours per casino	106,748*
Complying with	215,000 transactions	5 minutes per	17,917*

¹² According to the numbers provided to FinCEN by the American Gaming Association (AGA), there are 466 commercial class casinos as of October 20, 2020.

¹³ According to the numbers provided to FinCEN by the AGA, there are 527 tribal properties as of October 20, 2020.

¹⁴ 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. See also *supra* note 8. FinCEN does not have a source to estimate the number of card clubs affected by 31 CFR 1021.410, therefore, the number of card clubs is not included in the total estimated number of casinos.

Action	Number of Casinos or Transactions (See Table 1)	Time	Total Hourly Burden
recordkeeping requirements under 31 CFR 1021.410(b)(11)	conducted by card clubs in total ¹⁵	transaction	
Complying with recordkeeping requirements under 31 CFR 1021.410(c)	993	4 hours per casino	3,972
Total Hourly Burden			128,637

* 106,747.5 rounds to 106,748; 17,916.6 rounds to 17,917

Estimated Total Annual Burden Hours: 128,637

13. Estimated annual cost burden.

Table 3 – Total cost of traditional annual PRA burden

Action	Hour Burden	Hourly Cost	Total Cost
Complying with recordkeeping requirements under 31 CFR 1021.410(a) & (b) (1)-(9)	106,748	\$96 ¹⁶	\$10,247,808
Complying with recordkeeping requirements under 31 CFR 1021.410(b)(11)	17,917	\$96 ¹⁷	\$1,720,032
Complying with recordkeeping requirements under 31 CFR 1021.410(c)	3,972	\$96 ¹⁸	\$381,312
Total Cost			\$12,349,152

Estimated Total Annual Cost: \$12,349,152

¹⁵ FinCEN does not have a way to estimate the number of cash transactions conducted annually per card club. In addition, FinCEN does not have a source to estimate the number of card clubs impacted by this regulation. In the past FinCEN estimated the total number of cash transactions conducted by card clubs annually was 215,000. Because FinCEN does not have a reliable source to estimate the number of cash transactions conducted by card clubs annually, and we did not receive comments casting doubt on our estimate of 215,000 cash transactions in the last renewal of this regulation, we will continue to use this estimate as part of the traditional annual PRA burden estimate.

¹⁶ See *supra* note 11.

¹⁷ See *supra* note 11.

¹⁸ See *supra* note 11.

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 121,056 hours in 2017 to 128,637 hours in 2022. The estimated burden per casinos remained at 111.5 hours per casino. The increase in burden is due to an increase in the number of casinos from 925 in 2017 to 993 in 2022.

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.