

Supporting Statement  
OMB Control Number 1506-0020

Anti-Money Laundering Programs for Money Services Businesses, Mutual Funds, and Operators of Credit Card Systems

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)<sup>1</sup> and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).<sup>2</sup> The BSA is codified at 12 U.S.C. 1829b and 1951–1960 and 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 (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against terrorism, and to implement anti-money laundering/countering the financing of terrorism (AML/CFT) programs and compliance procedures.<sup>3</sup> The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.<sup>4</sup>

31 U.S.C. 5318(h)(1) of the BSA mandates that financial institutions establish AML/CFT programs to guard against money laundering and the financing of terrorism.<sup>5</sup> Such programs must include, at a minimum: (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.<sup>6</sup> Pursuant to 31 U.S.C. 5318(h)(2), FinCEN issued regulations requiring banks lacking a Federal functional regulator (31 CFR 1020.210(b)), money services businesses (MSBs) (31 CFR 1022.210), mutual funds (31 CFR 1024.210), insurance companies (31 CFR

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<sup>1</sup> USA PATRIOT Act, Pub. L. 107–56.

<sup>2</sup> The AML Act was enacted as Division F, sections 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat. 3388 (NDAA).

<sup>3</sup> Section 358 of the USA PATRIOT Act expanded the purpose of the BSA by including a reference to reports and records “that have a high degree of usefulness in intelligence or counterintelligence activities to protect against international terrorism.” See 12 U.S.C. 1829b(a). Section 6101 of the AML Act further expanded the purpose of the BSA to cover such matters as preventing money laundering, tracking illicit funds, assessing risk, and establishing appropriate frameworks for information sharing. See 31 U.S.C. 5311.

<sup>4</sup> Treasury Order 180-01 (Jan. 14, 2020).

<sup>5</sup> The provision was added to the BSA through Section 352 of the USA PATRIOT Act. Section 6101(b) of the AML Act amended the provision to include explicit references to terrorism finance.

<sup>6</sup> The provision, which was added to the BSA through Section 352 of the USA PATRIOT Act, authorized FinCEN to prescribe minimum standards for AML programs and to exempt certain financial institutions from application of those standards. Section 6101(b) of the AML Act amended the provision to specify the factors that FinCEN must consider in prescribing minimum standards.

1025.210), dealers in precious metals, precious stones, or jewels (31 CFR 1027.210), operators of credit card systems (31 CFR 1028.210), and loan or finance companies (31 CFR 1029.210) to develop and implement written AML programs. This supporting statement covers the AML program requirements for MSBs, mutual funds, and operators of credit card systems.

2. Method of collection and use of data.

AML programs help to ensure that MSBs, mutual funds, and operators of credit card systems comply with the BSA, including requirements related to retention and maintenance of reports and records, and ensure that such institutions are not used to facilitate money laundering or terrorist financing. These requirements will assist law enforcement in financial investigations, protect against terrorism and strengthen national security, improve financial institutions' ability to assess and mitigate risk, help prevent evasion of financial sanctions, facilitate tax compliance, enhance financial transparency of legal entities, and advance U.S. compliance with international standards and commitments. Compliance with these requirements will be reviewed by Federal agencies during BSA examinations.

3. Use of improved information technology to reduce burden.

MSBs, mutual funds, and operators of credit card systems are permitted to automate their AML program 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.

MSBs, mutual funds, and operators of credit card systems 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.

A copy of the AML program must be maintained in writing and made available for inspection to the Department of the Treasury or appropriate regulatory agencies 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, including a written copy of the AML program, must be retained for a period of five years. Records must also be kept for five years to verify compliance with the

requirement to maintain such a program, as such record may relate to civil penalty actions 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 April 22, 2024, FinCEN published in the Federal Register a notice and request for comments concerning its intention to renew, without change, information collection requirements related to AML program regulations.<sup>7</sup> The comment period closed on June 21, 2024. FinCEN received three relevant comments in response to the notice.

One commenter noted that understanding financial operations enhances risk mitigation and proposed leveraging advanced technology for streamlining compliance with AML program regulatory requirements. Another commenter noted that non-banks should be required to maintain BSA programs like banks. FinCEN clarifies that certain non-bank financial institutions are required to implement AML programs, as described in the 60-day notice.<sup>8</sup> A third commenter noted that additional regulation of the financial industry may not create greater safety, particularly for small businesses.

FinCEN appreciates the feedback provided by these commenters and will take these recommendations into consideration as part of the future rulemaking. In addition, as noted in the 60-day notice to renew this information collection, in connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN intends to conduct, in the future, additional assessments of the Paperwork Reduction Act (PRA) burden associated with BSA requirements. This supporting statement does not address requirements that may be imposed under section 6101(b) of the AML Act. Paperwork and respondent burden for those requirements will be addressed in a separate notice of proposed rulemaking (NPRM).

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 an AML program established pursuant to 31 U.S.C. 5318(h) may be made available to appropriate law enforcement agencies and supervisory agencies.

11. Justification of sensitive questions.

<sup>7</sup> See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Anti-Money Laundering Programs for Certain Financial Institutions*, [89 FR 29427](#) (Apr. 22, 2024).

<sup>8</sup> *Ibid.*

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.<sup>9</sup>

12. Estimated burden of information collection.

Frequency: As required.

Estimated Number of Respondents: 258,065 financial institutions, specifically, MSBs, mutual funds, and operators of credit card systems.<sup>10</sup>

**Table 1. Number of Covered Financial Institutions, by Type, included under this OMB Control Number**

Type of financial institution		Number of financial institutions
Principal MSBs <sup>a</sup>		27,500 <sup>b</sup>
Providers or sellers of prepaid access	2,605	
Other types of principal MSBs	24,895	
Agent MSBs		229,161 <sup>c</sup>
Mutual funds		1,400 <sup>d</sup>
Operators of credit card systems		4 <sup>e</sup>
<b>Total</b>		<b>258,065</b>

<sup>a</sup> The definition of MSB covers both principal MSBs and agents. Under 31 CFR 1022.210(d)(1) (iii), a person that is an MSB solely because it is an agent for another MSB and the MSB for which it serves as an agent (the principal MSB) may by agreement allocate between themselves responsibility for developing policies, procedures, and internal controls. However, neither the agent nor the principal MSB can avoid liability for failing to establish or maintain an effective AML program by pointing to a contract assigning the responsibility to the other party.

<sup>b</sup> This value represents the number of uniquely identifiable principal MSBs with indicia of ongoing operations as of year-end 2023. The estimate is derived from FinCEN’s publicly available MSB data available at <https://www.fincen.gov/msb-registrant-search>, accessed February 28, 2024.

<sup>c</sup> In the absence of public comments in prior renewals of the OMB control number applicable to this regulatory requirement, FinCEN considers it reasonable to continue to rely upon its previous estimate that the number of agent MSBs remains approximately 229,161. This value was previously published in the 2020 notice to renew OMB control numbers 1506-0020, 1506-0030, and 1506-0035 (85 CFR 49420 (Aug. 13, 2020)).

<sup>d</sup> This estimate of the number of active mutual funds as of year-end 2023 is based on Form N-CEN filings received by the U.S. Securities and Exchange Commission (SEC) through January 20, 2023,

<sup>9</sup> See FinCEN, *Privacy Act of 1974, Systems of Records Notice*, [79 FR 20969](https://www.fincen.gov/systems-of-records-notice) (Apr. 14, 2014).

<sup>10</sup> Table 1 below breaks down the types of financial institutions covered by under this OMB control number. Note the number of respondents is a summation of the number of financial institutions that are required to update their AML programs (258,065) and the number of prepaid cards verified annually (2,600,000) for a total of 2,858,065 respondents.

as represented by data downloaded from SEC Open Data (<https://www.sec.gov/dera/data/form-nccen-data-sets>), accessed February 29, 2024.

<sup>e</sup> This value is based on FinCEN review of active, U.S. based market participants at year end 2023.

**Table 2. Burden Associated with Each Action of the Annual PRA Burden for MSBs, Mutual Funds, and Operators of Credit Card Systems**

Action	Instances per year	Time per instance	Type of financial institution	Number of financial institutions <sup>a</sup>	Total hourly burden
A. Maintaining and updating the written AML program	1 per financial institution	1 hour	All except agent MSBs	28,904	28,904
B. Storing the written AML program	1 per financial institution	5 minutes	All	258,065	21,505
C. Producing the AML program upon request	1 per financial institution	5 minutes	All	258,065	21,505
D. Board of directors/trustees approval of the AML program	1 per financial institution	1 hour	Mutual funds	1,400	1,400
E. Obtaining, verifying, and storing cardholder identifying information	2.6 million (once per card)	2 minutes	Providers or sellers of prepaid access	2,605	86,667
<b>Total Hourly Burden</b>					<b>159,982</b>

<sup>a</sup> As set out in Table 1 above.

Estimated Total Burden Hours: 159,982 hours.

13. Estimated total annual cost burden of information collection.

Estimated Total Annual Recordkeeping Cost:

**Table 3. Total Cost of the Annual PRA Burden for MSBs, Mutual Funds, and Operators of Credit Card Systems**

Action	Total burden in hours	Hourly cost		Total cost
	(Table 2)	\$	Source <sup>11</sup>	
A. Maintaining and updating the written AML program	28,904	\$49	Table 4	\$1,416,296.00
B. Storing the written AML program	21,505	\$34	Table 5	\$731,170.00
C. Producing the written AML program upon request	21,505	\$34	Table 5	\$731,170.00
D. Board of directors/trustees approval of the AML program	1,400	\$129	Table 3	\$180,600.00
E. Obtaining, verifying, and storing prepaid access customer identifying information	86,667	\$34	Table 5	\$2,946,678.00
<b>Total Cost</b>				<b>\$6,005,914.00</b>

Estimated Total Cost: \$6,005,914.00

14. Estimated annual cost to the Federal government.

The Federal government requires reporting of an AML program maintained by MSBs, mutual funds, and operators of credit card systems only upon request of the Department of the Treasury or appropriate supervisory agencies; therefore, the estimated annual cost to the Federal government is \$0.

15. Reason for change in burden.

The increase in burden from 155,076 hours to 159,982 hours is due to an increase in estimate of the total number of financial institutions impacted by the AML program regulatory requirements under this OMB control number. In 2020, FinCEN estimated that there were 253,697 respondents, as compared to 258,065 respondents in this renewal.

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

The collection of information will not be tabulated or compiled for publication.

17. Request not to display the OMB expiration date.

<sup>11</sup> See Tables 3 through 5, included in FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Anti-Money Laundering Programs for Certain Financial Institutions*, [89 FR 29427](#) (Apr. 22, 2024).

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. This request will not affect the normal three-year PRA renewal process.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.