

Supporting Statement  
OMB Control Number 1506-0046

Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts.

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>a</sup> and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).<sup>b</sup> The BSA is codified at 12 U.S.C. 1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, including 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>c</sup> The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.<sup>d</sup>

Section 312 of the USA PATRIOT Act added subsection (i) to 31 U.S.C. 5318 of the BSA. Section 312 mandates that each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for non-U.S. persons establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts. The regulations implementing the due diligence requirements for maintaining foreign correspondent accounts and private banking accounts are found at 31 CFR 1010.610 and 31 CFR 1010.620, respectively, and apply to covered financial institutions, defined as certain banks, brokers or dealers in securities, futures commission merchants, introducing brokers in commodities, and mutual funds.<sup>e</sup>

---

<sup>a</sup> USA PATRIOT Act, Pub. L. 107-56, 115 Stat. 272 (2001).

<sup>b</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.

<sup>c</sup> See 31 U.S.C. 5311.

<sup>d</sup> Treasury Order 180–01 (Jan. 14, 2020); *see also* 31 U.S.C. 310(b)(2)(I) (providing that the FinCEN Director shall “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”).

<sup>e</sup> 31 CFR 1010.605(e).

## 2. Method of collection and use of data.

The collection of information is not reported to the Federal government. Instead, covered financial institutions are required to document and maintain records reflecting the due diligence they conducted on correspondent accounts for foreign financial institutions and private banking accounts they maintain. 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.

Financial institutions 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 and thus, there is no duplication.

## 5. Methods to minimize burden on small businesses or other small entities.

All financial institutions that maintain correspondent accounts for foreign financial institutions or private banking accounts for non-US persons are required to conduct due diligence on such accounts and document such due diligence. Financial institutions are permitted to use the method most suitable to their assessment of risk as it relates to the due diligence requirements.

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

Without access to the information in question, the Federal government would be unable to fully evaluate the compliance of covered financial institutions with relevant U.S. law. The Federal government requires reporting of this information only upon request of appropriate law enforcement agencies and supervisory agencies.

## 7. Special circumstances requiring data collection inconsistent with guidelines.

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. These due diligence program records must be kept for five years to verify compliance with the requirement to maintain such a program, as such records 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 June 11, 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 due diligence programs for correspondent accounts for foreign financial institutions and for private banking accounts.<sup>f</sup> The comment period closed on August 12, 2024. FinCEN did not receive any relevant comments in response to the notice.

FinCEN always appreciates the feedback provided by commenters and takes into consideration any recommendations that it does receive as part of future rulemakings. 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. These assessments will offer the public additional opportunities for comment.

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.

Any personally identifiable information collected under the BSA is strictly controlled as outlined in FinCEN's Systems of Records Notices.<sup>g</sup> Information collected under the due diligence programs established pursuant to 31 U.S.C. 5318 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.

12. Estimated burden of information collection.

Frequency: As required.

Estimated Number of Respondents: 16,232 financial institutions.<sup>h</sup>

**Table 1. Financial institutions covered by this notice, by type**

<b>Type of Institution</b>	<b>Count</b>
Banks with a Federal functional regulator (FFR) <sup>i</sup>	9,800
Banks lacking an FFR <sup>j</sup>	600

<sup>f</sup> See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts*, [89 FR 49273](#) (Jun. 11, 2024).

<sup>g</sup> See FinCEN, *Privacy Act of 1974, Systems of Records Notices*, [79 FR 20969](#) (Apr. 14, 2014).

<sup>h</sup> Table 1 below breaks down the types of financial institutions covered by this notice.

<sup>i</sup>

<b>Type of Institution</b>	<b>Count</b>
Brokers or dealers in securities <sup>k</sup>	3,478
Mutual funds <sup>l</sup>	1,400
Futures commission merchants and introducing brokers in commodities <sup>m</sup>	954
<b>Total</b>	<b>16,232</b>

<sup>a</sup> This estimate is based on call report data, as publicly available for download at the end of June 2023, from the Federal Financial Institutions Examination Council (FFIEC) for certain types of banks, savings associations, thrifts, trust companies (<https://cdr.ffiec.gov/public/pws/downloadbulkdata.aspx>.) and from the NCUA for credit unions (<https://www.ncua.gov/analysis/credit-union-corporate-call-report-data>).

<sup>b</sup> This estimate of active entries as of year-end 2023 incorporates data from both public and non-public sources, including: Call Reports; various State banking/financial institution regulators' websites and directories; the Federal Reserve Board of Governors' Master Account and Services database (<https://federalreserve.gov/paymentsystems/master-account-and-services-database-existing-access.htm>); and data from the OCIF (Oficina del Comisionado de Instituciones Financieras); and was derived in consultation with staff from the Internal Revenue Service's Small Business/Self-Employed Division.

<sup>c</sup> Estimate based on December 2023 file downloaded from data maintained by the U.S. Securities and Exchange Commission's (SEC). SEC, *Company Information About Active Broker-Dealers* available at <https://www.sec.gov/help/foiadocsbdfboa> (accessed on Feb. 28, 2024).

<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 SEC through January 20, 2023, as represented by data downloaded from SEC Open Data. SEC, Open Data, available at <https://www.sec.gov/dera/data/form-ncen-data-sets> (accessed Feb. 29, 2024).

<sup>e</sup> The number of futures commissions merchants as of December 31, 2023, was obtained from data available through the Commodity Futures Trading Commission (CFTC). CFTC, Financial Data for Futures Commission Merchants, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm> (accessed Mar. 1, 2024). To prevent double counting in burden estimates, 35 covered financial institutions that are also affected entities as broker-dealers were removed from the count; the count of introducing brokers in commodities as of year-end 2023 was provided by the CFTC.

---

j  
k  
l  
m

Estimated Total Annual Burden Hours:

FinCEN continues estimating the annual hourly burden of maintaining and updating the due diligence program for foreign correspondent accounts and private banking accounts at two hours per covered financial institution. This estimate covers the burden of (i) maintaining and updating the due diligence program to take into consideration any regulatory changes and any potential modifications required by changes in the types of foreign correspondent accounts or private banking accounts maintained, or by changes in the operations or organizational structure of the foreign financial institutions for which a covered financial institution maintains accounts, as well as changes to the organizational structure of private banking accounts (one hour), and (ii) presenting the updated due diligence program to the appropriate level of senior management of the financial institution for approval (one hour).

FinCEN’s estimate of the annual PRA burden, therefore, is 32,464 hours, as detailed in Table 2 below.

**Table 2 – Burden associated with updating and maintaining the due diligence program and obtaining senior management approval of the program**

Type of Financial Institution	Number of Financial Institutions (See Table 1)	Time Per Financial Institution		Aggregate Burden Hours Per Step		Total Burden Hours
		Maintenance	Approval	Maintenance	Approval	
Banks with an FFR	9,800	1 hour	1 hour	9,800	9,800	19,600
Banks without an FFR	600	1 hour	1 hour	600	600	1,200
Brokers or dealers in securities	3,478	1 hour	1 hour	3,478	3,478	6,956
Mutual funds	1,400	1 hour	1 hour	1,400	1,400	2,800
Futures commission merchants and introducing brokers in commodities	954	1 hour	1 hour	954	954	1,908
<b>Total Burden Hours</b>				<b>16,232</b>	<b>16,232</b>	<b>32,464</b>

13. Estimated total annual cost burden of information collection.

Estimated Total Annual Recordkeeping Cost:

FinCEN is utilizing the same fully-loaded composite hourly wage rate of \$106.30 that it utilized in the notice of proposed rulemaking (NPRM) entitled Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Companies, which was published on May 21, 2024.<sup>n</sup>

The total estimated cost of the annual PRA burden is \$3,450,923.20, as reflected in Table 3 below.

**Table 3. Total cost of the annual PRA burden**

<b>Steps</b>	<b>Hourly Burden</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
Maintaining and updating the program	16,232	\$106.30	\$1,725,461.60
Board of directors/senior management approval of the program	16,232	\$106.30	\$1,725,461.60
<b>Total Cost</b>			<b>\$3,450,923.20</b>

<sup>n</sup> See FinCEN and SEC, *NPRM Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, [89 FR 44571](#) (May 21, 2024). Specifically, as set out on 89 FR 44590, Table 1, footnote 1, the wage rate applied here is a general composite hourly wage (\$74.86), scaled by a private-sector benefits factor of 1.42 ( $\$106.30 = \$74.86 \times 1.42$ ), that incorporates the mean wage data (available for download at <https://www.bls.gov/oes/tables.htm>, “May 2022 - National industry-specific and by ownership”) associated with the six occupational codes (11-1010: Chief Executives; 11-3021: Computer and Information Systems Managers; 11-3031: Financial Managers; 13-1041: Compliance Officers; 23-1010: Lawyers and Judicial Law Clerks; 43-3099: Financial Clerks, All Other) for each of the nine groupings of NAICS industry codes that FinCEN determined are most directly comparable to its eleven categories of covered financial institutions as delineated in 31 CFR parts 1020 to 1030. The benefit factor is 1 plus the benefit/wages ratio, where as of Dec. 2023, Total Benefits = 29.6 and Wages and salaries = 70.4 ( $29.6/70.4 = 0.42$ ) based on the private industry workers series data downloaded from <https://www.bls.gov/web/ecec/ecec-private-dataset.xlsx>, accessed Mar. 22, 2024.

14. Estimated annual cost to the Federal government.

The Federal government requires reporting of these due diligence programs 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 estimated total annual burden hours decreased from 33,876 hours in the 2020 renewal of this control number to 32,464 hours in 2024. The estimated burden to maintain and update a due diligence program remained at two hours per covered financial institution. The decrease in burden is a result of a decrease in the estimated number of covered financial institutions from 16,938 in the 2020 renewal of this control number to 16,232 in 2024.

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 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. 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.