

Supporting Statement
OMB Control Number 1506-0059

Additional Records to be Made and Retained by Banks

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)¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² 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.³ The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.⁴

The Annunzio-Wylie Anti-Money Laundering Act (Annunzio Wylie) amended the BSA by authorizing the Secretary and the Board of Governors of the Federal Reserve System (Board) to jointly issue regulations requiring insured depository institutions to maintain records of domestic funds transfers.⁵ The Secretary, but not the Board, is authorized to promulgate recordkeeping requirements for domestic wire transfers by nonbank financial institutions.⁶ In addition, Annunzio-Wylie authorized the Secretary and the Board, after consultation with state banking supervisors, to jointly issue regulations requiring insured depository institutions and certain nonbank financial institutions to maintain records of international funds transfers and transmittals of funds.⁷

¹ USA PATRIOT Act, Pub. L. 107-56, 115 Stat. 272 (Oct. 26, 2001).

² 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 (Jan. 1, 2021).

³ See 31 U.S.C. 5311.

⁴ 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.”).

⁵ Pub. L. 103-325, sec. 1515 (1992); 12 U.S.C. 1829b(b)(2).

⁶ 12 U.S.C. 1953.

⁷ 12 U.S.C. 1829b(b)(3). The term “funds transfer,” as defined in FinCEN regulations, applies exclusively to transactions that are processed by banks. *See* 31 CFR 1010.100(w). A “transmittal of funds” is broader, as it includes not only funds transfers, but transactions processed by nonbank financial institutions. *See* 31 CFR 1010.100(ddd).

A. 31 CFR 1020.410(a) — Information required to be collected, retained, and transmitted under the recordkeeping and travel rules

On January 3, 1995, Treasury and the Board jointly issued a recordkeeping rule (Recordkeeping Rule) that requires banks and nonbank financial institutions to collect and retain information related to funds transfers and transmittals of funds in amounts of \$3,000 or more.⁸ The Recordkeeping Rule is intended to help law enforcement and regulatory authorities to detect, investigate, and prosecute money laundering, and other financial crimes by preserving an information trail about persons sending and receiving funds through the funds transfer system.

At the same time, FinCEN issued a separate rule (Travel Rule) that requires banks and nonbank financial institutions to transmit information on certain funds transfers and transmittals of funds to other banks or nonbank financial institutions participating in the transfer or transmittal.⁹ The Recordkeeping Rule and the Travel Rule complement each other. Generally, as noted below, the Recordkeeping Rule requires financial institutions to collect and retain the information that, under the Travel Rule, must be included with transmittal orders, although the Recordkeeping Rule also has other applications in addition to ensuring that information is available to include with funds transfers. FinCEN issued the Travel Rule pursuant to statutory authority that permits the Secretary to require domestic financial institutions and nonfinancial trades or businesses to maintain appropriate procedures to ensure compliance with the BSA or to guard against money laundering.¹⁰

Requirements in the Recordkeeping Rule related to funds transfers by banks are codified at 31 CFR 1020.410(a). Requirements in the Recordkeeping Rule related to transmittals of funds processed by nonbank financial institutions are codified at 31 CFR 1010.410(e). The Travel Rule consists of a single provision, codified at 31 CFR 1010.410(f), that applies to all transmittals of funds, including those processed by banks.¹¹ This supporting statement proposes to renew the regulations that implement 31 CFR 1020.410(a) of the Recordkeeping Rule, along with all of the other regulatory requirements under 31 CFR 1020.410.¹²

⁸ 60 FR 220 (Jan. 3, 1995).

⁹ 60 FR 234 (Jan. 3, 1995).

¹⁰ *Id.* The authority is codified at 31 U.S.C. 5318(a)(2).

¹¹ *See supra* note 7.

¹² OMB control number 1506-0058 applies to 31 CFR 1010.410 and 31 CFR 1022.420. OMB control number 1506-0059 applies to 31 CFR 1020.410. On October 27, 2020, the Board and FinCEN (collectively, the “Agencies”) issued a joint notice of proposed rulemaking to modify the thresholds in the Recordkeeping Rule and the Travel Rule. *See* 85 FR 68005 (October 27, 2020). This notice and request for comments under the PRA only pertains to the current regulatory requirements of the Recordkeeping Rule and the Travel Rule.

The Recordkeeping Rule and Travel Rule collectively require banks and nonbank financial institutions to collect, retain, and transmit information on funds transfers and transmittals of funds in amounts of \$3,000 or more.

Under the Recordkeeping Rule, the originator's bank or transmitter's financial institution must collect and retain the following information: (1) name and address of the originator or transmitter; (2) the amount of the payment or transmittal order; (3) the execution date of the payment or transmittal order; (4) any payment instructions received from the originator or transmitter with the payment or transmittal order; and (5) the identity of the beneficiary's bank or recipient's financial institution. In addition, the originator's bank or transmitter's financial institution must retain the following information if it receives that information from the originator or transmitter: (1) name and address of the beneficiary or recipient; (2) account number of the beneficiary or recipient; and (3) any other specific identifier of the beneficiary or recipient.¹³ The originator's bank or transmitter's financial institution is required to verify the identity of the person placing a payment or transmittal order—and collect and retain various items of information identifying the person—if the order is made in person and the person placing the order is not an established customer.¹⁴ Similarly, should the beneficiary's bank or recipient's financial institution deliver the proceeds to the beneficiary or recipient in person, the bank or nonbank financial institution must verify the identity of the beneficiary or recipient—and collect and retain various items of information identifying the beneficiary or recipient—if the beneficiary or recipient is not an established customer. Finally, an intermediary bank or financial institution—and the beneficiary's bank or recipient's financial institution—must retain originals or copies of payment or transmittal orders.

B. B. 31 CFR 1020.410(c) — Additional records to be made and retained by banks

Pursuant to 31 CFR 1020.410(c), banks must retain either the original or a copy of the following:¹⁵

- Each document granting signature authority over each deposit or share account, including any notations, if such are normally made, of specific identifying information to verify the identity of the signer.¹⁶
- Statement, ledger card, or other record on each deposit or share account, showing each transaction in, or with respect to, that account.¹⁷

¹³ 31 CFR 1020.410(a).

¹⁴ "Established customers" include persons with accounts at the financial institution and certain persons with identifying information on file at the financial institution. See 31 CFR 1010.100(p).

¹⁵ Under 31 CFR 1020.410(b), a bank is required to secure and maintain a record of the taxpayer identification numbers of persons who have purchased or redeemed certificates of deposit or opened deposit or share accounts during the period from June 30, 1972 to October 1, 2003. Insofar as deposit and share accounts are concerned, customer identification program (CIP) requirements have effectively superseded that provision. See 31 CFR 1020.220. CIP requirements are not considered in connection with this OMB control number renewal.

¹⁶ 31 CFR 1020.410(c)(1).

¹⁷ 31 CFR 1020.410(c)(2).

- Each check, clean draft, or money order drawn on the bank or issued and payable by it, with certain exceptions.¹⁸
- A record of each item in excess of \$100 comprising a debit to a customer's deposit or share account, with certain exceptions.¹⁹
- A record of each item, including checks, drafts, or transfers of credit of more than \$10,000 remitted or transferred to a person, account, or place outside the United States.²⁰
- A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account, or place outside the United States.²¹
- Each check or draft in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment.²²
- Each item, including checks, drafts or transfers of credit of more than \$10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a bank, broker or dealer in foreign exchange outside the United States.²³
- A record of each receipt of currency, other monetary instruments, investment securities or checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States.²⁴
- Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of \$100. This requirement is only applicable to demand deposits.²⁵
- A record containing the name, address, and taxpayer identification number (TIN), if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, notation of the method of payment, and the date of the transactions.²⁶
- A record containing the name, address, and TIN, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.²⁷

¹⁸ 31 CFR 1020.410(c)(3). See 31 CFR 1020.410(c)(3) for a list of exceptions to the recordkeeping requirements.

¹⁹ 31 CFR 1020.410(c)(4).

²⁰ 31 CFR 1020.410(c)(5).

²¹ 31 CFR 1020.410(c)(6).

²² 31 CFR 1020.410(c)(7).

²³ 31 CFR 1020.410(c)(8).

²⁴ 31 CFR 1020.410(c)(9).

²⁵ 31 CFR 1020.410(c)(10).

²⁶ 31 CFR 1020.410(c)(11).

²⁷ 31 CFR 1020.410(c)(12).

- Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The record must include the amount of any currency involved.²⁸

2. Method of collection and use of data.

Currently, banks are required to collect and retain information related to funds transfers and transmittals of funds in amounts of \$3,000 or more. These requirements 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 is reviewed by Federal agencies during BSA examinations.

3. Use of improved information technology to reduce burden.

Banks are permitted to automate their AML program to meet their requirements, including the requirement to collect information related to funds transfers and transmittals of funds. 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.

Currently, all banks are required to collect and retain information related to funds transfers and transmittals of funds in amounts of \$3,000 or more. When complying with these recordkeeping requirements, banks are permitted to use the method most suitable based upon their assessment of risk as it relates to their size and type of business.

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

These recordkeeping requirements are intended to help law enforcement and regulatory authorities detect, investigate, and prosecute money laundering, and other financial crimes by preserving an information trail about persons sending and receiving funds through the funds transfer system. Access to these records is key to assisting law enforcement and regulatory authorities to protect the financial system from crime.

7. Special circumstances requiring data collection 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 must be retained for a period of five years. Records must also be kept for five

²⁸ 31 CFR 1020.410(c)(13).

years to verify compliance with 31 CFR Chapter X, 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 August 13, 2024, FinCEN published in the Federal Register a notice and request for comments of its intention to renew, without change, information collection requirements for regulations requiring records to be made and retained by financial institutions, banks, and providers and sellers of prepaid access.²⁹ The comment period closed on October 15, 2024. FinCEN received one comment in response to the notice. However, the comment did not address these BSA regulatory requirements or corresponding burden estimates.

FinCEN appreciates feedback provided by commenters and will take recommendations into consideration. 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 PRA burden associated with BSA requirements and responsive modifications to current estimates.

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

No payments or gifts were be made to respondents.

10. Assurance of confidentiality of responses

Information retained under the regulations implementing the BSA 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. Any personally identifiable information collected under the BSA is strictly controlled as outlined in FinCEN's Systems of Records Notice.³⁰

12. Estimated burden of information collection.

Frequency: As required

Estimated Number of Respondents: 10,062 banks.

²⁹ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Records to Be Made and Retained by Financial Institutions, Banks, and Providers and Sellers of Prepaid Access*, [89 FR 65971](#) (Aug. 13, 2024).

³⁰ See FinCEN, *Privacy Act of 1974, Systems of Records Notice*, [79 FR 20969](#) (Apr. 14, 2014).

Table 1. Distribution of financial institutions covered by this notice, by type of financial institution

Type of financial institution	Number of financial institutions
Banks with a Federal functional regulator (FFR)	9,462 ^a
Banks lacking an FFR	600 ^b
Total	10,062

^a This estimate of the total number of banks with an FFR, including credit unions, is based on end of year 2023 data as provided by each of the FFRs, respectively. The FFRs are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration.

^b 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-exisiting-access.htm>); and data from the Commonwealth of Puerto Rico Oficina del Comisionado de Instituciones Financieras (OCIF); and was derived in consultation with staff from the Internal Revenue Service's Small Business/Self-Employed Division.

Estimated Total Recordkeeping Burden Hours: 1,006,200 hours

OMB control number 1506-0059

31 CFR 1020.410:

Banks, including credit unions, are required to: (1) collect and retain information on funds transfers when conducting funds transfers in amounts of \$3,000 or more; and (2) retain an original or copy of records when conducting transactions addressed in 31 CFR 1020.410(c). Due to the challenges of obtaining the total number of funds transfers of \$3,000 or more conducted by each bank, and the challenges of obtaining the total number of transactions conducted by each bank that would trigger recordkeeping requirements in 31 CFR 1020.410(c), and the uncertain significance for burden calculation of different financial institutions conducting different numbers of such transactions, FinCEN estimated, in its most recent control number renewal, that the annual recordkeeping burden per bank was an average of 100 hours per affected financial institution.³¹ In the absence of information suggesting a more accurate way of estimating total burden, FinCEN continues to estimate that the average annual hourly burden to comply with the recordkeeping requirements in 31 CFR 1020.410 is 100 hours per bank.

10,062 banks³² multiplied by 100 hours results in a total annual hourly burden estimate of 1,006,200 hours.

³¹ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Records to be Made and Retained by Financial Institutions, Banks, and Providers and Sellers of Prepaid Access*, [85 FR 84105](#) (Dec. 23, 2020).

³² See *supra* table 1 for the total number of banks.

Total Annual PRA Burden for OMB Control Number 1506-0059: 1,006,200 hours.

Table 2. Distribution of estimated total annual burden hours per requirement by type of affected financial institutions

Regulatory requirement	Affected financial institution type	Number of financial institutions	Annual burden estimate per financial institution in hours	Total annual burden hours per regulatory requirement
31 CFR 1020.410	Banks	10,062	100	1,006,200
Total annual burden hours				1,006,200

13. Estimated total annual cost burden of the information collection.

Estimated Total Annual Recordkeeping Cost: \$106,959,060

FinCEN is utilizing the same fully loaded composite hourly wage rate of \$106.30 utilized in the 2024 notices of proposed rulemaking (NPRMs) entitled Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Companies and Anti-Money Laundering and Countering the Financing of Terrorism Programs, as well as in recent 60-Day Notices to renew OMB control numbers corresponding to specific BSA regulations.³³

The total estimated cost of the annual PRA burden is \$106,959,060.00, as reflected in table 3 below:

Table 3. Estimated total cost of annual PRA burden

Regulatory requirement	Burden hours	Wage rate	Total cost
31 CFR 1020.410	1,006,200	\$ 106.30	\$106,959,060.00

³³ See, e.g., FinCEN and SEC, *NPRM Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, [89 FR 44571](#) (May 21, 2024); FinCEN, *NPRM Anti-Money Laundering and Countering the Financing of Terrorism Programs* NPRM, [89 FR 55428](#) (July 3, 2024); FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions*, [89 FR 51940](#) (June 20, 2024); 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](#), (June 11, 2024).

Total annual cost		\$106,959,060.00
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There are no estimates of 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 total annual burden hours decreased by 48,000 hours from 1,054,200 hours in 2020 to 1,006,200 hours in 2024, although the annual hourly burden estimates per regulatory requirement remained the same as in 2020. The reduction in burden is solely a result of a decrease in the number of banks from 10,542 in 2020 to 10,062 in 2024.

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

This 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.