

Supporting Statement
OMB Control Numbers 1506-0052

Regulations Requiring Additional Records to be Made and Retained by Dealers in Foreign Exchange (31 CFR 1022.410).

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

Pursuant to 31 CFR 1022.410(a), a dealer in foreign exchange must secure and maintain a record of the taxpayer identification number of certain persons for whom a transaction account is opened or a line of credit is extended. The taxpayer identification number must be obtained and recorded within 30 days of the date the account is opened or credit line extended, or longer if the person opening the account or seeking the line of credit needs to apply for a taxpayer identification or social security number. For non-resident aliens, a dealer in foreign exchange is required to record the person's passport number or a description of some other government document used to verify his or her identity. A dealer in foreign exchange will not be treated as violating 31 CFR 1022.410(a) if it has made a reasonable effort to obtain a taxpayer identification number, maintains a list containing the names, addresses, and account or credit line numbers of those persons from whom it has not secured a taxpayer identification number, and provides these names, addresses, and account or credit line numbers to the Secretary upon request. Furthermore, a dealer in foreign exchange need not secure a taxpayer identification number in instances involving accounts for public funds opened by

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.”).

agencies or instrumentalities of federal, state, local, or foreign government, accounts for ambassadors, career diplomatic or consular officers, military attaches, accredited representatives to international organizations and certain other aliens, and accounts for unincorporated subordinate units of a tax-exempt central organization that are covered by a group exemption letter.

Pursuant to 31 CFR 1022.410(b), a dealer in foreign exchange must also retain the original or a copy of nine types of documents: (1) statements of accounts from banks, including documents representing the entries reflected on such statements; (2) daily work records, including documents needed to identify and reconstruct currency transactions with customers and foreign banks; (3) a record of each exchange of currency involving transactions in excess of \$1,000, including the customer's name and address (and passport or taxpayer identification number unless received by mail or common carrier), the date and amount of the transaction, and the currency name, country, and total amount of each foreign currency; (4) signature cards or other documents evidencing signature authority over each deposit or security account, containing specified items of information about the customer (including a record of the actual owner of the account if customer accounts are maintained in a code name); (5) each item, including checks, drafts, and transfers of credit, of more than \$10,000 remitted or transferred to a person, account, or place outside the United States; (6) a record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, or more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account, or place outside the United States; (7) records prepared or received by the dealer in foreign exchange in the ordinary course of business that would be needed to reconstruct an account and trace a check in excess of \$100 deposited in such an account through its internal recordkeeping system to its depository institution, or to supply a description of such a deposited check; (8) a record of the name, address, and taxpayer identification number of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction; and (9) a system of books and records that enables the dealer in foreign exchange to prepare an accurate balance sheet and income statement. To the extent that these records include originals or copies of checks, drafts, monetary instruments, investment securities, or other similar instruments, copies of front and back of such instruments must generally be retained.⁵ If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained, then such a record shall be prepared in writing.⁶ Records must be maintained for five years.⁷

2. Method of collection and use of data.

The collection of information described above is not reported to the Federal government. Instead, dealers in foreign exchange are required to secure and maintain records of the taxpayer identification number for individuals for whom a transaction or account is opened, or for whom a line of credit is extended, subject to certain exceptions.

⁵ 31 CFR 1010.430(a).

⁶ 31 CFR 1010.430(b).

⁷ See 31 CFR 1010.430.

The regulations also require that dealers in foreign exchange retain originals or copies of specified documents relating to account and transaction records. 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.

Dealers in foreign exchange are permitted to automate their AML programs to meet their requirements, including the requirement to collect certain records. 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 dealers in foreign exchange are required to secure and maintain the records described in this statement and are permitted to use the method most suitable based on 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 certain transactions conducted by dealer in foreign exchanges. Access to these records is a key component to assisting law enforcement and regulatory authorities to protect the financial system from crime.

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. Records must also be kept for five 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 additional records to be made and retained by dealers in foreign exchange and additional records to be made and retained by brokers or

dealers in securities.⁸ The comment period closed on October 15, 2024. FinCEN received one comment in response to the notice. However, the comment did not make recommendations regarding 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 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 upon a lawful request.

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.⁹

12. Estimated burden of information collection.

Frequency: As required.

Estimated Number of Respondents: 3,623 dealers in foreign exchange.¹⁰

Estimated Total Recordkeeping Burden Hours: 57,968 hours

31 CFR 1022.410(a):

⁸ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Additional Records to Be Made and Retained by Dealers in Foreign Exchange and Additional Records to be Made and Retained by Brokers or Dealers in Securities*, [89 FR 65980](#) (Aug. 13, 2024).

⁹ See FinCEN, *Privacy Act of 1974, Systems of Records Notice*, [79 FR 20969](#) (Apr. 14, 2014).

¹⁰ This number is derived from data as self-reported by MSBs identified as active at year-end 2023 in FinCEN's publicly available MSB registration database (available at <https://www.fincen.gov/msb-state-selector>, downloaded Feb. 28, 2024).

Each dealer in foreign exchange must secure and maintain a record of the taxpayer identification number of certain persons for whom a transaction account is opened or a line of credit is extended. The taxpayer identification number must be obtained and recorded within 30 days of the date the account is opened or credit line extended, or longer if the person opening the account or seeking the line of credit needs to apply for a taxpayer identification or social security number. A dealer in foreign exchange will not be treated as violating the requirement if it has made a reasonable effort to obtain a taxpayer identification number, maintains a list containing the names, addresses, and account or credit line numbers of those persons from whom it has not secured a taxpayer identification number, and provides these names, addresses, and account or credit line numbers to the Secretary upon request.

31 CFR 1022.410(b):

Each dealer in foreign exchange must retain the original or a copy of nine types of documents, as described in Section I — Statutory and Regulatory Provisions above. Due to the challenges of obtaining the total number of such records required to be maintained by dealers in foreign exchange under 31 CFR 1022.410, in its most recent control number renewal, FinCEN estimated that the annual recordkeeping burden per dealer in foreign exchange for these requirements was 16 hours.¹¹ FinCEN continues to estimate that the annual hourly burden of complying with 31 CFR 1022.410 is 16 hours per dealer in foreign exchange.

Multiplying 3,623 dealers in foreign exchange by 16 hours results in a total annual hourly burden estimate of 57,968 hours.

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

Estimated Total Annual Recordkeeping Cost: \$6,161,998.40

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.¹²

¹¹ See FinCEN, *Agency Information Collections Activities; Proposed Renewal; Comment Request: Renewal Without Change of Regulations Requiring Additional Records To Be Made and Retained by Dealers in Foreign Exchange and Additional Records To Be Made and Retained by Brokers or Dealers in Securities*, [86 FR 7778](#) (Feb. 1, 2021).

¹² 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,

Multiplying 57,968 hours by \$106.30 results in a total estimated cost of annual PRA burden of \$6,161,998.40

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 estimated total annual burden hours increased by 43,200 hours from 14,768 hours in 2020 to 57,968 hours in 2024, although the annual hourly burden estimate for these recordkeeping requirements remained the same as in 2020. The increase in the estimated total annual burden hours is solely a result of an increase in the estimated number of dealers in foreign exchange from 923 in 2020 to 3,623 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.

2024).