



## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Agency Information Collection Activities; Proposed Renewal; Comment Request;

#### Renewal Without Change of the Beneficial Ownership Requirements for Legal

#### Entity Customers

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a renewal, without change, of existing information collection requirements related to beneficial ownership requirements for legal entity customers. Under Bank Secrecy Act regulations, covered financial institutions are required to collect, and to maintain records of, the information used to identify and verify the identity of each beneficial owner of their legal entity customers, subject to certain exclusions and exemptions. This request for comment is made pursuant to the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

**ADDRESSES:** Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2024-0008 and the specific Office of Management and Budget (OMB) control number 1506-0070.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2024-0008 and OMB control number 1506-0070.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA and applicable OMB regulations and guidance. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** FinCEN's Regulatory Support Section at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

**SUPPLEMENTARY INFORMATION:**

I. Statutory and Regulatory Provisions

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 (AML) programs and

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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).

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>

Subject to certain exclusions and exemptions, 31 CFR 1010.230 requires covered financial institutions<sup>5</sup> to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of new accounts opened by legal entity customers and to include such procedures in their AML programs. Covered financial institutions may obtain the required identifying information by either obtaining a prescribed certification form from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies to the best of the individual's knowledge the accuracy of the information. Covered financial institutions must verify the identity of each beneficial owner identified according to risk-based procedures and may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information.

Covered financial institutions must also maintain a record of the identifying information obtained, and a description of any document relied on for verification, including a description of any non-documentary methods and results of any measures undertaken, and the resolutions of substantive discrepancies. Covered financial institutions must retain records used to identify each beneficial owner for five years after

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<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> Covered financial institutions include certain banks, brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities. *See* 31 CFR 1010.230(f), 1010.605(e)(1).

the date the account is closed and must also retain records used to verify the identity of each beneficial owner for five years after the record is made.

As required by section 6403(d) of the Corporate Transparency Act (CTA), which was enacted as part of the AML Act, FinCEN intends to revise the requirements of 31 CFR 1010.230 to bring them into conformance with the CTA and address other considerations that FinCEN is required to take into account.<sup>6</sup> As part of the revisions to 31 CFR 1010.230, FinCEN intends to further assess the PRA burden of these requirements.

## II. Paperwork Reduction Act of 1995<sup>7</sup>

Title: Beneficial Ownership Requirements for Legal Entity Customers (31 CFR 1010.230).

OMB Control Number: 1506-0070.

Form Number: Appendix A to § 1010.230 – Certification Regarding Beneficial Owners of Legal Entity Customers.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the beneficial ownership requirements for legal entity customers regulations contained in 31 CFR 1010.230.

Affected Public: Business and other for-profit institutions and non-profit institutions.

Type of Review: Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Respondents: 15,221 covered financial institutions.<sup>8</sup>

### **Respondent Covered Financial Institutions by Category**

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<sup>6</sup> The CTA is Title LXIV of the NDAA.

<sup>7</sup> Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

<sup>8</sup> FinCEN's estimate accounts for all covered U.S. financial institutions. There are approximately 15,221 covered financial institutions.

<b>Financial Institution Type</b>	<b>Number of Entities</b>
Banks	9,250 <sup>9</sup>
Brokers or dealers in securities	3,477 <sup>10</sup>
Mutual funds	1,495 <sup>11</sup>
Futures commission merchants	62 <sup>12</sup>
Introducing brokers in commodities	937 <sup>13</sup>
<b>Total</b>	<b>15,221</b>

Estimated Recordkeeping Burden Per Response:

- a. Update and maintain beneficial ownership identification procedures: 20 minutes.<sup>14</sup>
- b. Customer identification, verification, and review and recordkeeping of the beneficial ownership information: 80 minutes. A range of 40 to 120 minutes per legal entity customer (an average of 80 minutes per legal entity customer).<sup>15</sup>

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<sup>9</sup> Bank data is as of December 14, 2023, from Federal Deposit Insurance Corporation (FDIC) BankFind. See FDIC, BankFind, available at <https://banks.data.fdic.gov/bankfind-suite/bankfind>. Credit union data is as of September 30, 2023, from the National Credit Union Administration (NCUA) Quarterly Data Summary Reports. See NCUA, *Quarterly Data Summary Reports*, available at <https://ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-data-summary-reports>.

<sup>10</sup> According to the Securities and Exchange Commission (SEC), there are 3,477 broker-dealers in securities as of December 2023. See SEC, Data, *Company Information About Active Broker-Dealers*, available at <https://www.sec.gov/help/foiadocsbdfioa>.

<sup>11</sup> According to the SEC, as of the third quarter of 2023, there are 1,495 open-end registered investment companies that report on Form N-CEN. SEC, Data, *Form N-CEN Data Sets*, available at <https://www.sec.gov/dera/data/form-ncen-data-sets>.

<sup>12</sup> According to the Commodity Futures Trading Commission (CFTC), there are 62 futures commission merchants as of October 31, 2023. See CFTC, *Financial Data for FCMs*, available at <https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>.

<sup>13</sup> According to National Futures Association, there are 937 introducing brokers in commodities as of November 30, 2023.

<sup>14</sup> See FinCEN, *Customer Due Diligence Requirements for Financial Institutions Final Rule*, 81 FR 29398 (May 11, 2016). The final rule recognized a burden of 56 hours to develop the initial procedures (40 hours for small entities). Once procedures are developed, an annual burden of 20 minutes is recognized for revisions to and maintenance of such procedures. Covered financial institutions were required to comply with this rule by May 11, 2018, so no burden hours are included in this analysis for the initial development of procedure.

<sup>15</sup> See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Beneficial Ownership Requirements for Legal Entity Customers*, 84 FR 72137 (Dec. 30, 2019). On December 30, 2019, FinCEN published a notice to renew the Beneficial Ownership Requirements for Legal Entity Customers (the 2019 Notice). In response to the 2019 Notice, a public policy, research and advocacy group, whose membership includes a broad range of U.S. and U.S.-based banks, provided a comment noting that the estimate for customer identification, verification, and review and recordkeeping of beneficial ownership information should be increased to a range of 40 to 120 minutes. Because of its broad membership of banks impacted by the regulations, FinCEN chose to take the average of the range of 40 to 120 minutes to estimate a new burden of 80 minutes per new account opened by a legal entity customer. When the OMB control number was renewed in 2020, that 80 minutes estimate was incorporated. For the rationale for the increase in the burden estimate to 80 minutes per new account

Estimated Total Annual Responses: 5,723,096.<sup>16</sup>

Estimated Total Annual Recordkeeping Burden: 7,615,574 hours.<sup>17</sup>

Estimated Total Annual Reporting and Recordkeeping Cost: \$372,782,347.30 (7,615,574 hours multiplied by \$48.95).<sup>18</sup>

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the

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opened by a legal entity customer, *see* Office of Management and Budget, *Supporting Statement for OMB Control Number 1506-0070*, available at [https://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=202003-1506-001](https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202003-1506-001).

<sup>16</sup> *See* FinCEN, *Customer Due Diligence Requirements for Financial Institutions Final Rule*, 81 FR 29398 (May 11, 2016). Based on research conducted as part of the final rule, it was estimated that each covered financial institution will open, on average, 1.5 new legal entity accounts per business day. There are 250 business days per year. (15,221 covered financial institutions X 1.5 accounts per day X 250 business days per year = 5,707,875 legal entity accounts opened per year). 5,723,096 responses (5,707,875 accounts to verify plus 15,221 covered financial institution's programs to update).

<sup>17</sup> 5,707,875 new legal entity accounts multiplied by 80 minutes per account established and divided by 60 minutes per hour equals 7,610,500 burden hours to identify and verify beneficial owners of new legal entity accounts per year. 20 minutes to update and maintain beneficial ownership identification and verification procedures within a covered financial institution's AML program multiplied by 15,221 covered financial institutions and divided by 60 minutes equals 5,074 burden hours annually. The total annual burden hours estimate for this information collection is (7,610,500 + 5,074) 7,615,574 hours.

<sup>18</sup> The average hourly wage rate is calculated from the May 2022 U.S. Bureau of Labor Statistics (BLS) median hourly wage for "13-1041 Compliance Officer" of \$34.47. *See* BLS, *Occupational Employment and Wages Statistics* (May 2022), available at <https://www.bls.gov/oes/tables.htm>. The ratio between benefits and wages for private industry workers is \$12.19 (hourly benefits)/\$29.34 (hourly wages) = 0.42, as of September 2023. The benefit factor is 1 plus the benefit/wages ratio, or 1.42. *See* BLS, *Employee Costs for Employee Compensation* (Sept. 2023), available at <https://www.bls.gov/ecec/home.htm#:~:text=Employer%20costs%20for%20private%20industry,percent%20of%20total%20compensation%20costs>. The fully-loaded wage rate is \$48.95 (\$34.47 multiplied by 1.42).

collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

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