



## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

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

#### Renewal Without Change of Purchases of Bank Checks and Drafts, Cashier's

#### Checks, Money Orders, and Traveler's Checks

**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 comments on the proposed renewal, without change, of existing information collection requirements found in Bank Secrecy Act regulations that require financial institutions to maintain records related to the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves the use of currency in an amount between \$3,000 and \$10,000, inclusive. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

**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: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2024-0017 and Office of Management and Budget (OMB) control number 1506-0057.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2024-0017 and OMB control number 1506-0057.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 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, 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

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<sup>1</sup> USA PATRIOT Act, Pub. L. 107–56, 115 Stat. 272 (2001).

<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.

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>

The BSA prohibits financial institutions from issuing any “bank check, cashier’s check, traveler’s check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of \$3,000 or more” unless the individual either (1) has a verified transaction account with the financial institution; or (2) furnishes the financial institution with the information required by regulations and that information is verified and recorded by the financial institution, along with the method of account verification or the information required to be furnished.<sup>5</sup> To implement these requirements, FinCEN issued a regulation requiring financial institutions to maintain records related to the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks.<sup>6</sup> The regulation applies to all financial institutions as defined in 31 CFR 1010.100(t). However, as a practical matter banks and money services businesses (MSBs) are the

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<sup>3</sup> See 31 U.S.C. 5311.

<sup>4</sup> Treasury Order 180-01 (Jan. 14, 2020); *see also* 31 U.S.C. 310(b)(2)(I) (providing that FinCEN Director “[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>5</sup> 31 U.S.C. 5325.

<sup>6</sup> 31 CFR 1010.415. This regulation was originally published in 1990 as 31 CFR 103.29. *See* Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders and Traveler’s Checks, 55 FR 20139 (May 15, 1990). It was modified slightly in 1994. *See* FinCEN, *Amendments to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders, and Traveler’s Checks*, 59 FR 52250 (Oct. 17, 1994).

types of financial institutions most likely to issue or sell bank checks and drafts, cashier's checks, money orders, and traveler's checks.<sup>7,8</sup>

Under 31 CFR 1010.415, financial institutions are required to maintain records of certain information related to the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves currency between \$3,000 and \$10,000, inclusive, to any individual purchaser of one or more of these instruments. Under 31 CFR 1010.415(a)(1)(i), if the purchaser has a deposit account with the financial institution, the financial institution is required to maintain records of: (A) the name of the purchaser; (B) the date of purchase; (C) the type(s) of instrument(s) purchased; (D) the serial number(s) of each of the instrument(s) purchased; and (E) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(1)(ii), the financial institution must also verify that the individual is a deposit account holder or must verify the individual's identity.<sup>9</sup>

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<sup>7</sup> 31 CFR 1010.100(t) defines financial institution to include: banks; brokers or dealers in securities; MSBs, telegraph companies; casinos and card clubs; persons subject to supervision by any state or Federal bank supervisory authority; futures commission merchants, introducing brokers in commodities; and mutual funds. It is FinCEN's assessment that banks and MSBs are the only types of financial institutions as defined under 31 CFR 1010.100(t) that are in the business of issuing or selling bank checks and drafts, cashier's checks, money orders, and traveler's checks.

<sup>8</sup> 31 CFR 1010.100(ff)(3) defines an MSB that is an issuer or seller of traveler's checks or money orders as a person that issues or sells traveler's checks or money orders in an amount greater than \$1,000 to any person on any day in one or more transactions. FinCEN can estimate the number of principal MSBs that report that they are issuers and/or sellers of money orders or traveler's checks on FinCEN Form 107 – Registration of Money Services Businesses (RMSB). However, FinCEN cannot estimate the number of agent MSBs that may be issuers and/or sellers of money orders or traveler's checks. FinCEN assesses that given that an MSB is only defined as an issuer and/or seller of traveler's check if it issues or sells money orders and/or traveler's checks that accumulate to greater than \$1,000 to any one person on any day in one or more transactions that most agent MSBs are less likely to reach the \$1,000 threshold that would warrant compliance with 31 CFR 1010.415. For that reason, the burden estimates to comply with this information collection as described in tables 1 and 2 below only account for principal MSBs that have reported on the RMSB that they are issuers and/or sellers of money orders or traveler's checks. The threshold of between \$3,000 and \$10,000 to comply with 31 CFR 1010.415 makes it even more unlikely that agent MSBs are engaged in such transactions.

<sup>9</sup> 31 CFR 1010.415(a)(1)(ii) (stating that “[v]erification may be either through a signature card or other file or record at the financial institution provided the deposit account holder's name and address were verified previously and that information was recorded on the signature card or other file or record; or by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser. If the deposit account holder's identity has not been verified previously, the financial institution may only verify the deposit account holder's identity by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must also record the specific identifying information (e.g., State of issuance and number of driver's license))”.

Under 31 CFR 1010.415(a)(2)(i), if the purchaser does not have a deposit account with the financial institution, the financial institution must maintain a record of: (A) the name and address of the purchaser; (B) the social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number; (C) the date of birth of the purchaser; (D) the date of the purchase; (E) the type(s) of instrument(s) purchased; (F) the serial number(s) of the instrument(s) purchased; and (G) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(2)(ii), the financial institution must also verify the purchaser's name and address by examination of a document that is normally acceptable as a means of identification when cashing checks for nondepositors and that contains the name and address of the purchaser, and must also record the specific identifying information.

Under 31 CFR 1010.415(b), financial institutions must treat contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more as one purchase. Multiple purchases during one business day totaling \$3,000 or more must be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

Under 31 CFR 1010.415(c), financial institutions must retain all required records for a period of five years and make those records available to the Secretary upon request at any time.

## **II. Paperwork Reduction Act of 1995 (PRA)<sup>10</sup>**

*Title:* Purchases of bank checks and drafts, cashier's checks, money orders, and traveler's checks (31 CFR 1010.415).

*OMB Control Number:* 1506-0057.

*Report Number:* Not applicable.

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<sup>10</sup> Pub. L. 104-13, 109 Stat. 163 (codified at 44 U.S.C. 3506(c)(2)(A)).

*Abstract:* FinCEN is issuing this notice to renew the OMB control number for the recordkeeping requirement for the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks when the issuance or sale involves the use of currency in an amount between \$3,000 and 10,000, inclusive.

*Affected Public:* Businesses or 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:* 23,207 financial institutions.<sup>11</sup>

*Estimated Recordkeeping Burden:*

In Part 1 of this analysis, FinCEN describes the distribution of the estimated number of financial institutions by type affected by the regulatory requirements. In Part 2, FinCEN describes the primary characteristics of the regulatory requirements. In addition, in Part 2, FinCEN proposes for review and comment a renewal of the calculation of the annual PRA burden that includes a scope and methodology similar to that used in the 2021 notice to renew these information collection requirements.<sup>12</sup>

### **Part 1. Distribution of the Financial Institutions Covered by this Notice**

The distribution of financial institutions, by type, covered by this notice is reflected in table 1 below:

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

<b>Type of financial institution</b>	<b>Number of financial institutions</b>
Banks	10,062
Banks with a Federal functional regulator (FFR)	9,462 <sup>a</sup>
Banks lacking an FFR	600 <sup>b</sup>
Principal MSBS – Issuers/Sellers of Money Orders/Traveler’s Checks <sup>c</sup>	13,145
Principal MSBs – Issuers/Sellers of Money Orders Only	11,764
Principal MSBs – Issuers/Sellers of Money Orders and Traveler’s Checks	1,318

<sup>11</sup> Table 1 below describes the distribution of the types of financial institutions covered by this notice.

<sup>12</sup> See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Purchases of Bank Checks and Drafts, Cashier’s Checks, Money Orders, and Traveler’s Checks*, 86 FR 6411 (Jan. 21, 2021).

Type of financial institution	Number of financial institutions
Principal MSBs – Issuers/Sellers of Traveler’s Checks Only	63
<b>Total</b>	<b>23,207</b>

<sup>a</sup> 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.

<sup>b</sup> This estimate of active entries as of year-end 2023 was derived in consultation with staff from the Internal Revenue Service’s Small Business/Self-Employed Division and 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).

<sup>c</sup> 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. FinCEN, MSB Registrant Search, *available at* <https://www.fincen.gov/msb-state-selector> (downloaded Feb. 28, 2024).

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.

## **Part 2. Annual PRA burden and cost**

The scope of the annual PRA burden and cost estimates in this renewal encompasses the incremental recordkeeping requirements for FinCEN purposes that are associated with the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks between \$3,000 and \$10,000, inclusive. FinCEN continues to assign an estimate of the incremental annual average hourly burden of creating and maintaining records for the issuance or sale of bank checks and drafts, cashier’s checks, money orders, or traveler’s checks to individual purchasers when the sale involves currency between \$3,000 and \$10,000, inclusive, that is approximately seven and a half hours per covered financial institution, irrespective of the volume of such transactions.<sup>13</sup>

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<sup>13</sup> FinCEN does not have access to enough of the requisite data to estimate the volume of bank checks and drafts, cashier’s checks, money orders, and/or traveler’s checks or the typical currency value of the relevant products that are issued or sold by any one covered financial institution in a given year. FinCEN’s PRA estimates of the number of affected financial institutions include all identified, active entities in the respective categories of financial institutions that issue or sell the financial instruments covered by this control renewal. However, to the extent that SAR filings related to money orders or traveler’s checks might proxy for the number of entities that regularly issue or sell such financial instruments in dollar values

This estimate covers the expected average incremental recordkeeping burden for FinCEN purposes of (1) verifying the identity of depository account holder and other customers purchasing bank checks and drafts, cashier’s checks, money orders, or traveler’s checks when the issuance or sale involves currency between \$3,000 and \$10,000, inclusive; and (2) creating and maintaining records of certain information for a minimum of five years to be made available to the Secretary upon request.<sup>14</sup>

FinCEN’s estimate of the total annual PRA burden (174,053 hours) includes the recordkeeping requirements being renewed in this notice, detailed in table 2 below:

**Table 2 – Distribution of estimated total annual burden hours of maintaining recordkeeping requirements for issuance/sale of bank checks and drafts, cashier’s checks, money orders, or traveler’s checks**

<b>Affected financial institution type</b>	<b>Number of financial institutions</b>	<b>Average Annual burden estimate per financial institution in hours</b>	<b>Total annual burden hours</b>
Banks	10,062	7.5 hour	75,465
Issuers/sellers of money orders	11,764	7.5 hour	88,230
Issuers/sellers of money orders and traveler’s checks	1,318	7.5 hours	9,885
Issuers/sellers of travel checks	63	7.5 hour	473
<b>Total annual burden hours</b>			<b>174,053</b>

that would incur an incremental recordkeeping burden for FinCEN purposes, the number of affected financial institutions is likely two to three orders of magnitude smaller than then number of financial institutions to whom the rule applies. For example, between 2014 and 2023, the number of unique MSBs that filed SARs related to money orders ranged between a minimum of 1.7 (in 2024) and a maximum of 2.7 (2015) percent of the current estimate of affected MSBs. Over the same time period the number of unique MSBs that filed SARs related to traveler’s checks ranged from a minimum of 0.02 (in 2020) to a maximum of 0.09 (in 2016) percent of the population of affected MSBs estimated in table 2. Thus, while certain financial institutions, or types of affected financial institutions, may expect to incur a substantially higher incremental annual burden, FinCEN expects many other financial institutions may not incur any incremental recordkeeping burden at all due to the nature of their business practices. FinCEN therefore continues to assign an estimated average incremental annual hourly burden per financial institutions to comply with this information collection of seven and half hours that reflects this expectation about the distribution of affected financial institutions. FinCEN invites comments regarding information relevant to the calculation of burden—ideally from sources and collection methods that provide sufficient transparency and reliability for FinCEN to be confident in using that information in its calculations.

<sup>14</sup> This estimated burden, particularly with respect to depository customers of a bank, is intended to be distinct from the burden estimated in connection with a bank’s compliance with its ordinary customer identification program (CIP) obligations under 31 CFR 1020.220. FinCEN recently published its burden estimates related to CIP requirements and solicited public comment on those estimates separately. See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements*, 89 FR 51940 (June 20, 2024).

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.<sup>15</sup>

The total estimated cost of the annual PRA burden is \$18,501,833.90, as reflected in table 3 below:

**Table 3. Estimated total cost of annual PRA burden**

<b>Regulatory requirement</b>	<b>Burden hours</b>	<b>Wage rate</b>	<b>Total cost</b>
Verifying and maintaining records	174,053	\$106.30	\$18,501,833.90
<b>Total annual cost</b>			<b>\$18,501,833.90</b>

*Estimated Number of Respondents:* 23,207, as set out in table 1.

*Estimated Total Annual Recordkeeping Burden:* The estimated total annual PRA burden is 174,053 hours, as set out in table 2.

*Estimated Total Annual Recordkeeping Cost:* The estimated total annual PRA cost is \$18,501,833.90, as set out in table 3.

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

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<sup>15</sup> 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).

*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: (1) 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; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Andrea M. Gacki,**

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