



WASHINGTON, D.C.

99 M Street SE
Suite 300
Washington, D.C. 20003-3799

Phone: 202-638-5777

Fax: 202-638-7734

October 13, 2020

Policy Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

Re: Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions; Docket Number FINCEN–2020–0010 and the specific Office of Management and Budget (OMB) control numbers 1506–0022, 1506–0026, 1506–0033, and 1506–0034

To Whom It May Concern:

On behalf of the nation’s credit unions and their more than 120 million members, the Credit Union National Association (CUNA) appreciates the opportunity to submit comments to the Financial Crimes Enforcement Network (FinCEN) in response to the above-referenced customer identification program (CIP) notice.¹

Background

The Bank Secrecy Act (BSA) provides, *inter alia*, authority for the Secretary of the Treasury to require financial institutions to maintain certain records and submit reports related to anti-money laundering (AML) programs.² These programs are designed to protect against international terrorism and counter-intelligence activities. The Director of FinCEN has been delegated the authority to adopt and implement BSA regulations,³ including rules requiring covered entities to “develop and implement customer identification programs designed to allow the financial institution to form a reasonable belief it knows the true identity of each customer.”⁴ The financial institutions covered by these requirements are grouped into four categories in the regulations: (1) “banks,” which are defined to include banks, credit unions, savings associations and State-regulated banking entities; (2) futures commission merchants and introducing commodities brokers; (3) mutual funds; and (4) brokers and dealers in securities.⁵

¹ FinCEN Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions, 85 Fed. Reg. 49425, available at <https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17694.pdf>.

² Id. at 49426, Part 1.

³ Treasury Order 180–01 (re-affirmed Jan. 14, 2020).

⁴ 85 Fed. Reg. 49425; *See also* 31 CFR §1020.220 (codifying relevant regulations for credit unions, banks, savings associations, and certain non-Federally regulated institutions).

⁵ *See* 31 CFR §1020.220 (banks); 31 CFR § 1026.220 (futures commission merchants and introducing brokers); 31 CFR § 1024.220 (mutual funds); and 31 CFR § 1023.220 (securities brokers and dealers).

Generally speaking, the BSA regulations relevant to this notice require covered institutions to:

1. Maintain a written CIP (as part of a larger written AML program if the institution is required to maintain one);
2. Identify risk-based procedures for verifying the identity of each customer, to the extent reasonable and practicable;
3. Establish recordkeeping processes for CIP-related information obtained;
4. Consult government lists to determine whether a new customer is listed as a suspected terrorist or terrorist organization; and
5. Notify customers that the bank is requesting personal information to verify their identities.⁶

In addition, the CIP can allow for a covered institution to rely upon another financial institution's CIP under certain conditions.⁷

The Paperwork Reduction Act of 1995 (PRA) requires agencies to estimate the burdens that their regulations impose on regulated industries.⁸ Because of difficulties involved with, among other things, estimating the number of new bank accounts opened for new customers each year, the PRA estimates for the hourly burden on credit unions and other "banks," have been established as 10 hours for maintaining and updating a written CIP, and 1 hour for posting notices or otherwise notifying customers about the need to verify their identities. The resulting 11-hour compliance estimate for banks excludes items 2-4 on the list above, so FinCEN is requesting comment on a future methodology that could estimate the hourly burden for identity verification, recordkeeping and list consultation.

General Comments

As we stated in response to the last PRA update to a BSA regulation, CUNA supports FinCEN's efforts to update these PRA burden estimates in order to more accurately understand the regulatory compliance costs to financial institutions.⁹ We also agree that the identify verification, list consultation and recordkeeping burdens are relevant for accurately calculating the true costs of complying with the CIP regulations.

While CUNA supports the objectives of BSA and the CIP regulations, we believe that this PRA update can help FinCEN strike the right balance between the costs imposed on leanly staffed and primarily locally-oriented credit unions and the benefits to the federal government and law enforcement of the regulatory requirements imposed. Prior to adopting final estimates, FinCEN would benefit from asking financial institutions to complete a voluntary survey measuring the hourly and monetary costs of compliance with the CIP rule, and can engage with industry groups like CUNA to assist by encouraging member participation. These efforts, beyond this PRA notice, would help FinCEN collect the broadest and most accurate cost estimate possible.

⁶ See 31 CFR §1020.220(a)(1) –(a)(5).

⁷ See 31 CFR §1020.220(a)(6).

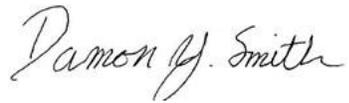
⁸ Public Law 104–13, 44 U.S.C. § 3506(c)(2)(A).

⁹ See CUNA Comment Letter on Docket Number FINCEN–2020– 0004, available at https://www.cuna.org/uploadedFiles/Advocacy/Actions/Comment_Calls_Letters_and_Testimonies/2020/Comment_Letters/SAR.CUNA.pdf.

Conclusion

We thank you for your consideration of CUNA's comments and look forward to working with FinCEN to update these and other BSA regulatory burden estimates. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 235-3390 or dsmith@cuna.coop.

Sincerely,

A handwritten signature in cursive script that reads "Damon Y. Smith".

Damon Y. Smith
Senior Director of Advocacy & Counsel