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Regulatory Policy and Programs Division
Financial Crimes Enforcement Network
Department of the Treasury
P. O. Box 39
Vienna, VA 22183

Attention: Customer Identification Program Comments;
74 Federal Register 10993; March 13, 2009

Dear Sir or Madam:

The American Bankers Association (ABA)¹ appreciates the opportunity to comment on the proposed renewal of the customer identification program (CIP) requirements. The CIP requirement was added by section 326 of the USA PATRIOT Act of 2001 and the federal banking agencies have adopted virtually identical rules that implement the Congressional mandate.²

The Financial Crimes Enforcement Network (FinCEN) now proposes to renew, without change, the CIP information collection requirement. As required by the Paperwork Reduction Act of 1995, FinCEN has developed an estimate of the time needed by the average bank to comply with these requirements. FinCEN estimates that the average time necessary for compliance with the requirements is 10 hours per respondent. This 10-hour estimate was developed based on the average time needed to develop and maintain customer identification programs and provide customers with notice of the programs. However, it is ABA's position that the current estimate is grossly understated and fails to capture the substantial effort banks make to keep their programs current and to execute this collection requirement for every customer they have.

Required Elements for the Calculation

In the process of analyzing burden there are a number of factors agencies are required to take into consideration under procedures established by the Office of Management and Budget (OMB). According to the OMB's *Implementing Guidance for OMB Review of Agency Information Collection*, these activities include the time needed to

¹ ABA brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$14 trillion in assets and employ over 2 million men and women.

² See 12 CFR 208.63(b), 211.5(m), 211.24(j) (Board of Governors of the Federal Reserve System); 12 CFR 326.8(b) (Federal Deposit Insurance Corporation); 12 CFR 748.2(b) (National Credit Union Administration); 12 CFR 21.21 (Office of the Comptroller of the Currency); 12 CFR 563.177(b) (Office of Thrift Supervision) and 31 CFR 103.121 (FinCEN).

review the requirement; developing and implementing technology to meet the requirements, including processing, maintaining and making disclosures associated with the required information; training personnel to be able to respond to requirements; identifying data sources; and finally, “devoting the time, effort and other resources to perform all required tasks, including the final completion and fulfillment of the information request.”³

In the specific context of CIP compliance, these OMB mandates mean that FinCEN must consider the actual policies and procedures (including the notice) developed by banks to meet the requirements, but perhaps more important, FinCEN also must evaluate the time needed to develop the information required to comply with the rule. In other words, to develop a proper estimate of the burden in hours, the time needed for a financial institution to collect the information – including the time taken to verify the information as required by the CIP rules – must also be taken into account.

Customer Identification Program Development and Training

ABA believes that, given the elements that must be incorporated into the calculation of the burden associated with this requirement, 10 hours is a gross understatement. To reflect the CIP burden accurately, the estimate of the average amount of time for compliance must be substantially increased. While 10 hours might not be entirely beyond reason for a small institution—if the estimate only involved a review of the bank’s notice, policy and procedures and any updating of those elements to reflect changes in the environment, including regulatory changes and updated guidance from the agencies—ten hours substantially understates the amount of time even a small bank needs to comply with the overall elements of the CIP rules. After all, it is the effect of implementing regulatory requirements that is contemplated by the Paperwork Reduction Act. For example, a \$500 million bank with 12 to 14 branches can require approximately one to two weeks or 40 to 80 hours just to review and update the policy and procedure, including presentation to the board of directors. Even just to review the simple notice provided to customers can take several hours.

To train employees on the requirements, including a refresher course, also takes time, and the time spent on training and auditing can be significant time consuming elements. Even if you estimate only one hour for each employee for an annual Bank Secrecy Act (BSA) refresher course, the 10 hour estimate will easily be reached and exceeded by even a small bank with only 25 employees. For a large multinational financial institution, training alone will quickly reach to hundreds if not thousands of hours. In fact, where CIP is concerned, the overall time needed to comply expands exponentially as institutions grow in size. It is not uncommon for a large institution with multi-national operations to hold regular conference calls with BSA compliance officers to discuss issues, including CIP. Even though CIP may not consume a major portion of those discussions, it does take time. In instances where there are significant CIP issues on the table, the 10 hour estimate in the proposal will promptly be exceeded.

³ *The Paperwork Reduction Act of 1995: Implementing Guidance for OMB Review of Agency Information Collection*, August 16, 1999, page 47.

Customer Identification and Verification

Over and beyond the development and updating of policies, procedures, notices and training, ABA believes the time needed to *comply* with CIP must be taken into account. Failure to include estimates of compliance times would fail to meet the guidance established by OMB for estimating the burden associated with an information collection.

For a routine customer, without any special needs, it can take approximately 15 to 30 minutes to collect and verify the customer's identity. Bear in mind, this is for a domestic customer whose identity can be verified by simply reviewing a current driver's license or similar ID (and document the verification effort). If further steps are needed to verify a customer's identity, it can take anywhere up to one hour in additional time. If the customer is not a United States citizen, the verification for one individual can take several hours, depending on the type of documentation that is available and the jurisdiction where that customer is located.⁴ For an average, everyday, typical customer who has no unusual circumstances, and for a typical small bank with between \$500 million and \$1 billion in assets that opens 1,000 new accounts each month, the time needed to comply with CIP alone can easily reach 250 hours *per month*.

For any rule, not only is there actual compliance, but the time to audit the procedures to confirm compliance and make any adjustments. For CIP, which is an established rule that bankers are accustomed to following, the time to conduct an audit can take approximately 200 hours for an average institution. And finally, to ensure that the bank is using up-to-date software, assuming that no revisions or updates are needed, can require one to two days per year over and above other times needed to comply with the rule.

Conclusion

Based on the feedback from our members described above, ABA urges FinCEN to use a more complete estimate of the time needed to comply with CIP that more accurately reflects actual burden. The estimate should consist of at least three components: a general number of the time needed to develop, update and approve policy; an additional number based on size and complexity of the institution that accurately captures staff training and implementation tasks; and a third component number that reflects per capita activity to collect and process each customer's identifying information. Only then will an accurate assessment of the burden be possible.

⁴ For an entity, the time needed for a United States bank to determine *how* to verify the entity's identity for one customer can easily exceed ten hours.

Thank you for the opportunity to comment. If you need additional information or would like to discuss any of these issues further, please contact the undersigned by telephone at 202-663-5029 or by e-mail at rowe@aba.com.

Sincerely,

A handwritten signature in black ink, reading "Robert G. Rowe" with a stylized flourish at the end.

Robert G. Rowe, III
Vice President & Senior Counsel