

Key Points from Customer Identification Program Rules Promulgated Under the USA PATRIOT ACT 31 C.F.R. § 103.121 Effective October 1, 2003

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I. Who is Covered (31 C.F.R. § 103.121(a), (b)(1))

- A. "Banks" (as defined in 31 C.F.R. § 11(c)) that are subject to a federal functional regulator
- B. Credit unions, private banks, and trust companies (as set forth in 31 C.F.R. § 11(c)) that are not subject to a federal functional regulator

II. General Requirements (31 C.F.R. § 103.121(b)(1))

- A. A bank must implement a written customer identification program appropriate for its size and type of business
- B. No specific method or procedure required
- C. Program should include the requirements set forth in III through VI below
- D. Program must be incorporated into the overall anti-money laundering compliance program if required to have such a program
- E. Should be approved by the Board of Directors
- F. Should be the subject of training for all customer representatives and loan officers

III. Identity Verification (31 C.F.R. § 103.121(b)(2))

A. The CIP program must include risk-based procedures for opening new accounts, including *customer information gathering* and *identity verification* with respect to each customer.

B. Customer Information

The institution must obtain, at a minimum:

1. Name
2. Date of Birth (if the customer is an individual)
3. Address (residential or business address for an individual; principal place of business or other physical location)
4. Identification Number
 - a) If U.S. person: taxpayer ID number
 - b) If non-U.S. person
 - (i) taxpayer ID number
 - (ii) passport number and country of issuance
 - (iii) number and country of issuance of any other government-issued nationality or residence and bearing a photograph or similar safeguard

C. Customer Verification

1. The CIP must also contain procedures for verifying the identity of the customer so that the institution can form a "reasonable belief that it knows the true identity of each customer."
2. May be achieved either through documents presented by the customer or non-documentary methods (e.g. contacting the customer, consumer reporting agencies, public databases). Verification through documents is preferred.
3. The CIP should contain specific examples of the documents that are acceptable for verification purposes, including:
 - a) For an individual, unexpired government-issued photo identification evidencing nationality or residence (e.g. driver's license, passport)
 - b) For an entity, documents evidencing existence, such as certified articles of incorporation, business license, partnership agreement or a trust instrument, although the authorized representative of the entity should present the type of identification required for an individual as noted above.

4. Unless the business and authorized representative are known by the bank representative, information should be obtained to substantiate the bona fides of the business operation.
5. It is also recommended that a second type of documentary verification should be obtained which confirms the information and photograph contained in the principal identification source.
6. The program also should address circumstances when the institution cannot form the requisite reasonable belief about the true identity of a customer. For example:
 - a) When the bank should refuse to open the account
 - b) Whether and when the bank should open the account with restricted use or access
 - c) When the bank should close the account after failing to verify identity
 - d) When the bank should file a Suspicious Activity Report
7. The CIP should be specific in terms of what the customer representative may or may not do.
8. Any override or approval function at a higher level at the institution must be documented.

IV. Record Keeping (31 C.F.R. § 103.121(b)(3))

- A. The CIP must include procedures for making and maintaining a record of the information reviewed and collected in the customer identification process.
- B. At a minimum, the record must include:
 1. All identifying information about the customer obtained by the bank
 2. Description of the documents obtained from the customer (including type of document, identification number, date of issuance, and expiration date)
 3. Description of actions taken to verify identity
 4. Description of the resolution of any discrepancy discovered by the bank
- C. Identifying information about the customer must be retained for
 1. 5 years after the date the account is closed, or
 2. for credit card accounts, 5 years after the account is closed or becomes dormant.
- D. Other information above must be retained for 5 years after the record is made

V. Comparison with Government Lists (31 C.F.R. § 103.121(b)(4))

A. The CIP must also contain procedures for determining, “within a reasonable period of time after the account is opened,” whether the customer appears on any list of known or suspected terrorists or terrorist organizations.

B. The Treasury Department plans to issue separate guidance regarding which lists the bank must consult, but there are third party vendors that can perform this service, either on a daily batch processing basis, or on line.

VI. Notice to Customers (31 C.F.R. § 103.121(b)(5))

A. The CIP must include procedures for providing bank customers with adequate notice that the bank will request information for the purpose of identity verification.

B. The bank should post a conspicuous notice in each site where a customer could open an account, including the institution's web site, and on application forms used for this purpose.

C. The Treasury Department has provided sample language for such a notice if appropriate:

“To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.”

D. If appropriate, the notice should state the account opening process will not be complete until all elements of the verification process are complete, which could take several days. Notice may also be given orally.

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