

SUPPORTING STATEMENT

1. Circumstances Necessitating Collection of Information

The Bank Secrecy Act, Titles I and II of Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S. C. 5311-5330) appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act regulations has been delegated to the Director of the Financial Crimes Enforcement Network.

Money laundering is a vital component of, not only drug trafficking, but also other illegal operations throughout the world. The reporting and record keeping requirements of the Bank Secrecy Act aid in creating a paper trail to trace drug and other proceeds back to their illegal sources and help to identify the sources, volume, and movements of domestic and international currency.

In 1992, section 5318 of the Bank Secrecy Act was amended to add provisions concerning reporting by financial institutions of suspicious transactions. In particular, section 5318(g) grants the Secretary of the Treasury the authority to require the reporting of such transactions by financial institutions subject to the Bank Secrecy Act, and contains a provision that prohibits the notification of any person involved in the transaction that a suspicious activity report has been filed. Section 5318(g) was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Pub. L. 102-550.

Certain futures commission merchants and introducing brokers in commodities under 31 CFR 103.17 and securities broker-dealers under 31 CFR 103.19 are required to report suspicious transactions to Treasury. A transaction would require reporting under the rule if the transaction is conducted or attempted by, at, or through these futures commission merchants, introducing brokers in commodities, or securities broker-dealers, involves or aggregates funds of at least \$5,000 and the futures commission merchants, introducing brokers in commodities or securities broker-dealer knows, suspects, or has reason to suspect that the transaction or the pattern of transactions of which the transaction is a part:

(i) involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal-activity;

(ii) is designed to evade a recordkeeping or reporting requirement of a regulation promulgated under the Bank Secrecy Act;

(iii) serves no business or apparent lawful purpose; or

(iv) involves the use of the business to facilitate criminal activity.

Under 31 CFR 103.17(d), and 31 CFR 103.19(d), futures commission merchants, introducing brokers in commodities, and securities broker-dealers are required to retain a copy of the any Suspicious Activity Report filed and supporting Documentation for the filing of the Suspicious Activity Report for five years. These documents are necessary for criminal investigations and prosecutions.

2. Method of Collection and Use of Data.

Information about suspicious transactions conducted or attempted by, at, through, or otherwise involving futures commission merchants, introducing brokers in commodities, or securities broker-dealers will be collected through the filing of these forms in a central location to be determined by the Financial Crimes Enforcement Network. The Financial Crimes Enforcement Network and law enforcement agencies will use the information on the Suspicious Activity Report by the Securities and Futures Industries for criminal investigation and prosecution purposes.

3. Use of Improved Information Technology to Reduce Burden.

The form is computer fillable and may be printed or saved electronically. This form may also be electronically filed through the BSA E-Filing system.

4. Efforts to Identify Duplication.

No other similar information exists.

5. Methods to Minimize Burden on Small Businesses or Other Small Entities.

The information collection will not have a significant economic impact on a substantial number of small entities. All futures commission merchants, introducing brokers in commodities and securities broker-dealers, regardless of their size, are currently subject to the Bank Secrecy Act. Procedures currently in place at futures commission merchants, introducing brokers in commodities, or securities broker-dealers to comply with existing Bank Secrecy Act rules should help future commission merchants and introducing brokers in commodities or securities broker-dealers identify suspicious transactions. Finally, certain small futures commission merchants, introducing brokers in commodities or securities broker-dealers may have an established and limited customer base whose transactions are well known to those futures commission merchants, introducing brokers in commodities or securities broker-dealer.

6. Consequences to the Federal Government of not Collecting the Information.

With the Suspicious Activity Report by the Securities and Futures Industries system, both law enforcement and industry benefit from improved detection of financial crime, analysis of trends, and coordination of investigative efforts. Failure to collect this information would limit law enforcement's ability to investigate and prosecute money laundering and other financial crimes conducted at or through these businesses.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

Respondents must report a suspicious transaction within 30 days but not later than 60 days after the transaction, which may result in reporting more frequently than quarterly. Prompt reporting is vital to the detection of money laundering and other financial crime, including the financing of terrorism.

8. Consultation with Individuals Outside of the Agency on Availability of Data. Frequency of Collection, Clarity of Instructions and Forms, and Data Elements.

On December 5, 2008, the Financial Crimes Enforcement Network published in the Federal Register a notice inviting comment for 60 days on the Suspicious Activity Report by the Securities and Futures industries form and on 31 CFR 103.17(d) and 103.19(d). (A copy of the 60-day notice, 73 FR 74230, is attached.) Comments were received from one respondent in response to the notice. The respondent's comments were reviewed and evaluated and determined to be directed toward improving the automation of the form. The comments were excellent but outside the scope of the renewal of this paper version of the form. The respondent's comments will be incorporated into the FinCEN forms modernization plan currently under development.

9. Payments or Gifts.

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No payments or gifts will be made to respondents.

10. Assurance of Confidentiality of Responses.

Information provided to the government on the Suspicious Activity Report by the Securities and Futures Industries form is expressly prohibited from disclosure to any person involved in the transaction under 31 U.S.C. 5318(g) (2), and implementing regulations, and the participating agencies' Privacy Act notice makes clear that the system of records is intended for the official use of law enforcement. Appropriate system security safeguards will be put in place to protect against unauthorized access.

11. Justification of Sensitive Questions.

No sensitive questions were asked.

12. Estimated Annual Hourly Burden.

Estimated number of recordkeepers reports: 12,000.

Estimated record keeping/filing per response: 2 hours.

Estimated record (Suspicious Activity Report) completion time: 60 minutes

Total estimated report and record keeping time: 3 hours.

Estimated total annual burden hours: 36,000 hours.

13. Estimated Annual Cost to respondents for hour burdens.

Not applicable.

14. Estimated Annual Cost to the Federal Government

Not applicable.

15. Reasons for Change in Burden.

Improved reporting accuracy.

16. Plans for Tabulation, Statistical Analysis, and Publication.

Not applicable.

17. Request not to Display Expiration Date of OMB Control Number.

To avoid having to reprint the form to show a new date, we are requesting permission not to display the Office of Management and Budget expiration date on the Suspicious Activity Report by the Securities and Futures Industries form.

18. Exceptions.

Not applicable.