

**Supporting Statement for the
Suspicious Activity Report by Depository Institutions
(FR 2230; OMB No. 7100-0212)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the interagency Suspicious Activity Report (FR 2230; OMB No. 7100-0212). Since 1996, the federal banking agencies¹ and the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file Suspicious Activity Reports (SARs).² Law enforcement agencies use the information submitted on the reporting form to initiate investigations and Federal Reserve staff use the information in the examination and oversight of supervised institutions.

The Federal Reserve's SAR rules apply to state member banks; bank holding companies and their nonbank subsidiaries; Edge and agreement corporations; and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve (Federal Reserve-Regulated entities). The Federal Reserve is only responsible for the paperwork burden imposed on these institutions. Other federal banking agencies account for the paperwork burden for the institutions they supervise. The annual burden per respondent varies depending on the nature of the activity being reported. Based on December 31, 2008, data submitted, the total annual burden for Federal Reserve supervised institutions is estimated to be 86,404 hours.

Background and Justification

The SAR filing requirement became effective on April 1, 1996. Prior to the effective date, the Federal Reserve, the other federal banking agencies, and FinCEN each issued new and nearly identical rules mandating the use of the interagency SAR for the reporting of suspicious activities. FinCEN has regulations requiring other types of financial institutions, such as brokers or dealers in securities and futures; money services businesses (money transmitters; issuers, redeemers and sellers of money orders and travelers' checks; check cashers, and currency exchangers); casinos and card clubs; and insurance companies to file reports on suspicious activities.

In January 2003, check boxes were added to Part III of the SAR to note terrorist financing and identity theft as suspicious activities and the safe harbor language in the instructions was updated to reflect changes made by the USA PATRIOT Act. In 2006, the SAR reporting form was revised to support a new joint filing initiative aimed at reducing the total number of duplicate SARs filed for a single suspicious transaction. On May 1, 2007, FinCEN

1 The Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

2 In 1996, the Federal Reserve together with the other federal banking agencies issued nearly identical regulations to implement the SAR process for banking organizations.

published a *Federal Register* notice (72 FR 23891)³ announcing the delayed implementation of these revisions, which were scheduled to become effective on June 30, 2007. As of this date, FinCEN has not established a new implementation schedule.

Description of Information Collection

Federal Reserve-Regulated entities follow the SAR instructions to determine when a SAR should be filed and what information should be included on the SAR.

Reporting Criteria

A banking institution must report certain known or suspected violations of federal law and suspicious transactions. An institution is generally required to file a SAR with respect to:

- Suspicious activity of any amount involving an insider,
- Violations aggregating \$5,000 or more where a suspect can be identified,
- Violations aggregating \$25,000 or more regardless of a potential suspect, or
- Violations aggregating \$5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.

An institution need not file a SAR for an attempted or committed burglary or robbery reported to the appropriate law enforcement agencies.

Currently there are five data collection parts to the SAR, as set forth below.

Part I - Reporting Financial Institution Information collects information that identifies the respondent institution (name and address, primary federal regulator, employer identification number (EIN) or taxpayer identification number (TIN), and the date on which the respondent institution closed, if applicable), the branch where the activity took place, the affected account number(s), if any, and whether such accounts have been closed as a result of the suspicious activity.

Part II - Suspect Information requires the respondent institution to describe the suspect, if one has been identified. This part collects the suspect's name, address, telephone numbers, occupation, social security number, EIN or TIN, forms of identification, and the suspect's relationship to the respondent institution. If the suspect is an insider, the respondent institution must report whether the suspect is still affiliated with the institution and, if not, whether the suspect has resigned, was suspended or was terminated. The report also requests the date the suspect ceased to be an employee of the respondent institution and whether the suspect made an admission or confession.

Part III - Suspicious Activity Information requires the respondent institution to describe the suspicious activity including the date of the activity, the dollar amount involved, a categorization of the type of activity, the amount of loss to the respondent institution as a result of the activity prior to any recovery, the amount recovered, whether the activity has affected the

³ http://www.fincen.gov/statutes_regs/frn/pdf/sar_fr_notice.pdf

respondent institution's financial soundness, whether the respondent institution's bonding company has been notified, which law enforcement agency, if any, has been notified, and the name and phone number of any person contacted at the law enforcement agency.

Part IV - Contact for Assistance requires the respondent institution to provide the date on which the SAR was prepared and the name, title, and phone number of a person to be contacted for additional assistance.

Part V - Suspicious Activity Information Explanation/Description requires the respondent institution to provide a chronological and complete narrative account of the activity, including what is unusual, irregular, or suspicious about the activity.

Time Schedule for Information Collection

Generally, a SAR must be filed within 30 days after the date of initial detection of facts that may constitute a basis for such filing. In certain circumstances, the respondent may extend the time for filing to 60 days. Respondents may file online (<http://bsaefiling.fincen.treas.gov/main.html>) or by paper. Copies of the reporting forms are available for downloading from the FinCEN website at (http://www.fincen.gov/forms/files/f9022-47_sar-di.pdf).

Legal Status

The Board's Legal Division has determined the SAR is required by law, pursuant to authority contained in the following statutes: 12 U.S.C. 248(a)(1), 625, 1818, 1844(c), 3105(c)(2), and 3106(a). The obligation to file a SAR is set forth in the Board's rules, and is mandatory:

- state member banks: 12 C.F.R. 208.62(c),
- entities subject to the Bank Holding Company Act and their nonbank subsidiaries: 12 C.F.R. 225.4(f),
- Edge and agreement corporations: 12 C.F.R. 211.5(k), and
- U.S. branches, agencies, and representative offices of foreign banks: 12 C.F.R. 211.24(f).

Section 5318(g)(2)(A)(ii) of Title 31 generally prohibits an officer or employee of the Federal Government from disclosing the existence of a SAR to anyone involved in the transaction, and section 5319 of Title 31 provides that SARs are exempt from disclosure under FOIA. The information collected on a SAR is covered by, among other things, exemptions 3 and 7 of the Freedom of Information Act (5 U.S.C. 552(b)(3)&(7)) and exemption 2 of the Privacy Act (5 U.S.C. 552a(k)(2))

Consultation Outside the Agency and Discussion of Public Comment

As set forth above, the SAR was originally designed in 1996 by an interagency group that consisted of the federal banking agencies, the U.S. Departments of Justice and Treasury, and several law enforcement agencies. Representatives of these agencies continue to collaborate on all revisions.

On April 1, 2009, the Federal Reserve published a notice in the *Federal Register* (74 FR 14863) requesting public comment for 60 days on the extension, without revision, of the interagency Suspicious Activities Report by Depository Institutions. The comment period for this notice expired on June 1, 2009. The Federal Reserve did not receive any comments. However, three comment letters were received by FinCEN. Two of the comment letters were from banking institutions and one was from a credit union association. The other agencies will published a separate *Federal Register* notice addressing the comments and each agency will separately submit their SAR information collection to OMB. On July 1, 2009, the Federal Reserve published a final notice in the *Federal Register* (74 FR 31441).

Estimate of Respondent Burden

As of December 31, 2008, 7,000 Federal Reserve-Regulated entities filed 86,404 SARs. Based on the year-end data the annual reporting burden for the Federal Reserve regulated entities is estimated to be 86,404 hours. The burden per institution varies depending on the nature of the activity being reported and is estimated to average 1 hour per response. The burden represents less than 2 percent of total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FR 2230	7,000	12.3434	1.0	86,404

The total cost to the public is estimated to be \$5,236,897.⁴

Sensitive Questions

This reporting form contains no questions of a sensitive nature, as defined by OMB guidelines.

⁴ Total cost to the public was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 30% Administrative or Junior Analyst @ \$25, 45% Managerial or Technical @ \$55, 15% Senior Management @ \$100, and 10% Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2007, <http://www.bls.gov/news.release/ocwage.nr0.htm> Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System is negligible. The Federal Reserve, as well as the other federal supervisors of financial institutions, distributes the reporting form both on paper and in electronic format. The Federal Reserve System has minimal data collection costs associated with SAR filings, as the filings go directly to the Internal Revenue Service Detroit Computing Center, which acts as the data base manager for FinCEN and the other federal banking agencies and makes the information available to the Federal Reserve electronically.