

Supporting Statement

1. Circumstances Necessitating Collection of Information.

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (“USA PATRIOT ACT”) Act of 2001, Public Law 107-56 (“the Act”). Title III of the Act amends the anti-money laundering provisions of the Bank Secrecy Act, codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314 and 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Part 103. The authority of the Secretary of the Treasury (“the Secretary”) to administer the BSA has been delegated to the Director of FinCEN.

Of the Act’s many goals, the facilitation of information sharing among governmental entities and financial institutions for the purpose of combating terrorism and money laundering is of paramount importance. Section 314 of the Act furthers this goal by providing for the sharing of information between the government and financial institutions, and among financial institutions themselves. As with many other provisions of the Act, Congress has charged the U.S. Department of the Treasury with developing regulations to implement these information-sharing provisions.

Subsection 314(a) of the Act states in part that:

[t]he Secretary shall . . . adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.

2. Method of Collection and use of data.

The information contained in the 314(a) request is used, primarily, by criminal investigators during the course of investigations that involve terrorism and/or money laundering.

3. Use of Improved Information Technology to Reduce Burden.

Currently, 100 % of this collection is filed using automated technology through the FinCEN Analysis and Liaison Division.

4. Efforts to Identify Duplication

There is no similar information available; thus, there is no duplication.

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

This collection of information does not significantly impact small entities.

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

This collection of information, in part, implements the process through which the Federal Government will comply with a self-executing Mutual Legal Assistance Agreement with the European Union. This treaty was ratified by the President on September 23, 2008 with the advice and consent of the United States Senate. Without this collection of information, the Federal Government will be in violation of the Mutual Legal Assistance Agreement.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

There are no special circumstances.

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

THIS NOTICE HAS NOT BEEN PUBLISHED. An NPRM 30-day notice was published on [enter date TBD XXXXXXXX]. In order to satisfy the United States' treaty obligation with certain foreign governments, FinCEN is proposing to extend the use of the 314(a) program to include foreign law enforcement agencies. On June 25, 2003, the Agreement on Mutual Legal Assistance between the United States and the European Union was signed. The notice also proposed allowing state and local law enforcement agencies, as well as FinCEN, on its own behalf and on behalf of appropriate components of the Department of the Treasury, to initiate 314(a) queries. FinCEN received [Enter number of comments received, if any] comments to this notice and responds as follows:

9. Payments and Gifts

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information collected in a 314a request is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel solely in the official performance of their duties.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

Frequency: Bi-weekly.

Estimated Number of Respondents: 20,134.

Estimated Number of Annual Responses: 1,080.

Estimate of Burden: Reporting average of 4 minutes per response. Reporting average of 72 hours

annually per Recordkeeper. Estimate of Total Annual Burden on Respondents: 1,449,648 hours.

13. Estimated Annual Cost to Respondents for Hour Burdens.

Not applicable.

14. Estimated Annual Cost to the Federal Government.

Not applicable.

15. Reason for Change in Burden.

This is a new requirement.

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

This collection of information will not be published.

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

Not Applicable.

18. Exceptions.

There are no exceptions to the certification statement on OMB Form 83-1.