

SUPPORTING STATEMENT
Suspicious Activity Report
OMB Control No. 1550-0003

NOTE: The Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") and four of the federal financial institution supervisory agencies¹ (the "bank regulators") are renewing the information collection without change to the Suspicious Activity Report ("SAR"). Although the OCC, OTS, FDIC, NCUA, and FinCEN are submitting the SAR information collection to OMB for approval, the Board of Governors of the Federal Reserve System ("the Board") has participated in the review of this information collection and will separately process its extension under its Paperwork Reduction Act delegated authority.

A. JUSTIFICATION

1. Circumstances Necessitating Collection of Information

OTS and the bank regulators, including the Board, adopted the SAR in 1996 to simplify the process through which depository institutions ("banks") inform their regulators and law enforcement about suspected criminal activity. The SAR was updated in 1999 and again in 2003.

In 1992, the Treasury Department was granted broad authority to require suspicious transaction reporting under the Bank Secrecy Act. See 31 U.S.C. 5318(g). FinCEN, which has been delegated authority to administer the Bank Secrecy Act, joined with the bank regulators in 1996 in requiring, on a consolidated form (the SAR form), reports of suspicious transactions. See 31 CFR 103.18(a). The filing of SARs is necessary to prevent and detect the laundering of money and other funds at banks.

Banks are required to retain a copy of any SAR filed and supporting documentation for the filing of the SAR for five years. See 31 CFR 103.18(d), 31 CFR 103.38 and 12 CFR 563.180(d)(6) 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 banks are collected through the filing by banks of the SAR with FinCEN. FinCEN has arranged for the Internal Revenue Service Detroit Computing Center ("DCC") to operate the computer system containing the information collected. FinCEN and DCC provide on-line access to the information collected to representatives of the bank regulators and appropriate law enforcement agencies.

FinCEN, the bank regulators, and law enforcement agencies use the information on the

¹ The four federal financial institution supervisory agencies are the Federal Depository Insurance Corporation (the "FDIC"), the Office of the Comptroller of the Currency (the "OCC"), the Office of Thrift Supervision (the "OTS"), and the National Credit Union Administration (the "NCUA").

SARs and the supporting documentation retained by the banks for criminal investigation and prosecution purposes.

3. Use of Improved Information Technology to Reduce Burden.

The SAR system uses improved information technology to reduce the burden on banks. Whereas banks previously filed multiple copies of different forms with their primary regulators, U.S. Attorneys' offices, the FBI, and other law enforcement agencies, as necessary, they are now able to file one consolidated form with FinCEN. By offering on-line access to appropriate users, FinCEN has eliminated the need for multiple filings. Because the various forms have been consolidated, the information collected is easier to collate, analyze, and use.

Using a computerized form (BSA e-filing), a bank can reduce the time required for its compliance staff to complete the form. A “fill-in” version has also been made available on the FinCEN web site.

4. Efforts to Identify Duplication.

Prior to the SAR system, each of the bank regulators required collection of similar information independently and on separate forms and Treasury collected similar information on its separate currency transaction report. The SAR takes the place of all of these separate reports and thus eliminates duplication.

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

Not applicable.

6. Consequences of Less Frequent Collection on Federal Programs or Policy Activities.

With the automated SAR system, the bank regulators, law enforcement, and industry alike benefit from improved detection of financial crime, analysis of trends, and coordination of investigative efforts. If SARs were no longer required, law enforcement and regulatory efforts to fight crime and protect the safety and soundness of banks would be severely hampered.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

The reporting of suspicious activity on a SAR may occur more frequently than quarterly, depending on the frequency of the activity. For reasons explained in paragraph 6 above, this information must be reported in a timely manner to enable law enforcement to take appropriate investigative action. Records must be kept for more than three years because substantive violations of the law that may be indicated by the activity reported on the SAR are generally subject to statutes of limitations longer than three years.

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

The requirement to file a SAR and maintain records of the supporting documentation is embodied in 31 CFR 103.18, which was adopted in 1996 after notice and comment procedures.

The SAR was developed in conjunction with the bank regulators and the Department of Justice. The SAR supports the action taken by the agencies in furtherance of the goals of the Attorney General's Bank Fraud Working Group.

FinCEN and the bank regulators issued a joint Federal Register notice (60-day notice) regarding the renewal of the 2006 SAR-DI without change on April 1, 2009. (74 FR 14863) The comments received in response to the 60-day notice (discussed below) were carefully considered. The second public notice advises the public that the agencies are submitting the SAR to OMB for review, discusses the comments received, and explains agency action taken as a result of the comments. Two comments were received in response to the April 1, 2009, Federal Register notice.

The two respondents indicated concern that burden hours did not reflect the time-required to complete and file a SAR.

Response: FinCEN's burden hours include 60 minutes for form completion and 60 minutes for recordkeeping as required in 31 CFR 103.18(d) and 31 CFR 103.38.

A respondent suggested eliminating the SAR narrative (PartV) and replacing it with check boxes. This respondent also recommended redesigning item 35, Suspicious Activity. This reference is to the 2003 version of the SAR but applies to the 2006 version under current review.

Response: While sometimes problematic, the value and flexibility of the narrative to law enforcement outweighs restricting the form to only check boxes. The banking regulators, FinCEN, and law enforcement believe that being more definitive of the suspicious activity check boxes could be seen as a limitation or restriction by filing institutions. Recommendation is not accepted.

Two respondent suggested that the current 90-day filing requirement for continuing activity be extended to six (6) months.

Response: Reducing the frequency of SAR reporting involving continuing suspicious activity is possible, but not recommended or supported. Reducing the information flow to law enforcement is not in keeping with the intended purpose of SAR reporting. Recommendation is not accepted.

A respondent provided its in-house cost for SAR reporting.

Response: Cost noted.

9. Payments or Gifts.

No payments or gifts will be made to respondents.

10. Assurance of Confidentiality of Responses.

Information provided to the government on SARs is expressly prohibited from disclosure under 31 U.S.C. 5318(g)(2), and 12 CFR 563(d)(12) and the participating agencies' Privacy Act notices make clear that the system of records is intended for the official use of law enforcement and bank regulators. Appropriate system security safeguards have been put in place to protect against unauthorized access.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

OTS currently regulates 804 institutions. OTS estimates 58,821 responses with a response time of 1 hour. OTS is citing 1.8 hours retention burden.

Estimated number of responses is 58,821

Reporting Burden x the number of responses is 58,821 hours (1 hour x 58,821)

Recordkeeping Burden (Retention Time) x number of responses is 105,877 hours (1.8 hour x 58,821)

Total Estimated Burden is 164,698 hours (58,821 + 105,877)

COST BURDEN

Reporting Burden:

Clerical (\$20/hour):	05% x 58,821 hours @ \$ 20 = \$ 58,821
Managerial/technical (\$40/hour):	10% x 58,821 hours @ \$ 40 = \$ 235,284
Senior Management (\$80/hour):	55% x 58,821 hours @ \$ 80 = \$2,588,124
Legal Counsel (\$100/hour):	30% x 58,821 hours @ \$ 100 = <u>\$1,764,630</u>
Total	\$ 4,646,859

Recordkeeping Burden:

Clerical (\$20/hour):	70% x 105,877 hours @ \$20 = \$1,482,278
Managerial/technical (\$40/hour):	20% x 105,877 hours @ \$40 = \$ 847,016
Senior Management (\$80/hour):	10% x 105,877 hours @ \$80 = <u>\$ 847,016</u>
Total	\$3,176,310

Total Hour Burden Cost (Reporting and Recordkeeping): \$7,823,169

13. Estimated Annual Cost.

Not applicable.

14. Estimated Annualized Cost to Federal Government.

Not applicable.

15. Reasons for change in Burden.

The increase in the burden is partially due to the fact that OTS inadvertently failed to cite the recordkeeping burden in the previous submissions (1.8 hours per response). The additional increase (in responses) is due to an increase in the number of SAR filings and more accurate estimates overall.

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 just to show a new date, OTS proposes to omit the OMB expiration date on the SAR form.

18. Exceptions.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

Not applicable.

ATTACHMENT 1 TO THE PAPERWORK REDUCTION ACT SUBMISSION FOR THE SUSPICIOUS ACTIVITY REPORT

FinCEN's form number for the Suspicious Activity Report is FinCEN Form 111, and the OMB Control Number assigned to FinCEN for the Suspicious Activity Report is 1506-0001. Each of the other agencies requiring the filing of the Suspicious Activity Report has its own form number and OMB Control Number. To facilitate cross-reference of those agencies' Paperwork Reduction Act submissions, those agencies and their numbers are as follows:

Federal Depository Insurance Corporation:

Form Number -- 6710/06
OMB Control Number -- 3064-0077

Office of the Comptroller of the Currency:

Form Number -- 8010-9, 8010-1
OMB Control Number -- 1557-0180

Office of Thrift Supervision:

Form Number -- 1601
OMB Control Number -- 1550-0003

National Credit Union Administration:

Form Number -- 2362
OMB Control Number -- 3133-0094