

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 FinCEN.

Section 5318(g) of the Bank Secrecy Act authorizes Treasury to require financial institutions to report suspicious transactions. Section 5318(g) also 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.

Under the Bank Secrecy Act regulations, financial institutions include certain non-bank financial institutions called money services businesses ("MSBs"). MSBs are generally defined as check cashers; currency exchangers; issuers, sellers, and redeemers of traveler's checks or money orders; and money transmitters. (See 31 CFR 103.11 (n) (3) and (uu)).

Certain MSBs --- currency exchangers; money transmitters; and issuers, sellers, or redeemers of money orders or travelers checks --are required under 31 CFR 103.20 to report suspicious transactions. A transaction is reportable if the transaction is conducted or attempted by, at, or through these money services businesses, involves or aggregates funds of at least \$2,000 (\$5,000 in certain cases), and the money services business 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 record-keeping or reporting requirement of a regulation promulgated under the Bank Secrecy Act; or
- (iii) serves no business or apparent lawful purpose.

Under 31 CFR 103.20(c), reporting MSBs are required to retain a copy of the any SAR filed and supporting Documentation for the filing of the SAR 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 reporting MSBs will be collected through the filing by these businesses with FinCEN of a form (the SAR-MSB form). FinCEN and law enforcement agencies will use the information on the SAR-MSB for criminal investigation and prosecution purposes.

3. Use of Improved Information Technology to Reduce Burden.

The renewed form does not involve the use of automated, electronic, or other technological collection techniques. However, the form is automated for completion on a computer and may 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 average money order sold is approximately \$100, and the average money transmission is approximately \$240 to locations within the United States, and approximately \$320 to locations outside the United States. Both of these amounts are substantially below the \$2000 (\$5,000 in certain cases) thresholds that trigger reporting and related recordkeeping under the rule. Thus, FinCEN believes that the threshold(s) have been set at levels that will avoid a significant economic burden on small entities.

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

With the SAR-MSB system, law enforcement and industry alike 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 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 June 20, 2008, FinCEN published in the Federal Register a notice inviting comment for 60 days on the renewal of the SAR-MSB form. (A copy of the 60-day notice, 73 FR 35203, is attached.) There were not comments received in response to the Federal Register notice.

9. Payments or Gifts.

No payments or gifts will be made to respondent

10. Assurance of Confidentiality of Responses.

Information provided to the government on the SAR-MSB form is expressly prohibited from disclosure under 31 U.S.C. 5318(g) (2), 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 are asked.

12. Estimated Annual Hourly Burden.

This action maintains this OMB control number active to retain the legal requirement to report and consolidates the associated PRA burden into electronic form under OMB Control Number 1506-0065. Because the burden is allocated to 1506-0065, a 1 hour placeholder burden will be maintained for this control number.

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

The burden for this collection has been reduced to 1 hour in order to reflect that the burden is cleared under 1506-0065.

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, FinCEN is requesting permission not to display the OMB expiration date on the SAR-MSB form.

18. Exceptions

Not applicable.