

SUPPORTING STATEMENT

NOTE: The Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") and the five federal financial institution supervisory agencies¹ (the "bank regulators") are renewing without change the 2006 OMB-approved version of the Suspicious Activity Report by Depository Institutions ("SAR-DI"). 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 process its extension under its Paperwork Reduction Act delegated authority.

1. Circumstances Necessitating Collection of Information

FinCEN and the bank regulators adopted the SAR in 1996 to simplify the process through which banks² inform their regulators and law enforcement about suspected criminal activity. The SAR-DI was updated in 1999 and again in 2003. FinCEN and the bank regulators updated the form again in 2006 to clarify the form, improve its usefulness to law enforcement and the bank regulators, and to facilitate joint filing of the report. The current action renews the 2006 version but permits filing institutions to continue to file the 2003 version until technical difficulties with the BSA database are corrected.³

In 1992, the Treasury 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-DI form), reports of suspicious transactions.⁴ The filing of SAR-DIs is necessary to prevent and detect the laundering of money and other funds at banks.

Banks are required to retain a copy of the any SAR-DI filed and supporting documentation for the filing of the SAR-DI for five years. See 31 CFR 103.18(d) and 31 CFR 103.38. These documents are necessary for criminal investigations and prosecutions.

¹ The five federal financial institution supervisory agencies are the Board of Governors of the Federal Reserve System (the "Board"), 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").

² Under the BSA, as implemented by 31 CFR 103.11, the term "bank" includes each agent, agency, branch or office within the United States of commercial banks, savings and loan associations, thrift institutions, credit unions, and foreign banks.

³ The form being renewed was approved by OMB effective June 30, 2007. On May 1, 2007, FinCEN published a Federal Register notice (72 FR 23891) (http://www.fincen.gov/statutes_regs/frn/pdf/sar_fr_notice.pdf) announcing the delayed implementation of the revised Suspicious Activity Report (SAR) forms. The revised SAR forms that support joint filings were originally scheduled to become effective on June 30, 2007 and mandatory on December 31, 2007. The delay in implementation does not impact ongoing suspicious activity reporting. Filers should continue to use the July 2003 form until further notice (http://www.fincen.gov/forms/files/f9022-47_sar-di.pdf). FinCEN will establish new dates for using the revised SAR forms in a future notice. Depository institutions will be provided ample lead time to incorporate the approved version.

⁴ See 12 CFR 208.62, 211.5(k), 211.24(f), and 225.4(f) (Board); 12 CFR 353 (FDIC); 12 CFR 748 (NCUA); 12 CFR 21.11 (OCC); 12 CFR 563.180 (OTS) (does not apply to Savings and Loan Holding Companies); and 31 CFR 103.18 (FinCEN).

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 of a SAR-DI by banks with FinCEN. FinCEN has arranged for the Internal Revenue Service Enterprise Computing Center ("ECC") to operate the computer system containing the information collected. FinCEN and ECC provide on-line access to the information collected to representatives of the bank regulators and appropriate law enforcement agencies.

FinCEN and law enforcement agencies use the information on SAR-DIs and the supporting documentation retained by the banks for criminal investigation and prosecution purposes.

3. Use of Improved Information Technology to Reduce Burden.

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 is also available on the FinCEN web site at http://www.fincen.gov/forms/files/f9022-47_sar-di.pdf.

4. Efforts to Identify Duplication.

Prior to the SAR-DI system, each of the bank regulators required collection of similar information independently and on separate forms. The SAR-DI takes the place of all 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-DI 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 SAR-DIs 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-DI 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 more than 3 years because substantive violations of the law that may be indicated by the activity reported on the SAR-DI are generally subject to statutes of limitations longer than 3 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-DI and maintain records of the supporting documentation was adopted in 1996 after notice and comment procedures.

The SAR-DI was developed in conjunction with the bank regulators and the Department of Justice. The SAR-DI 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-DI to OMB for review, discusses the comments received, and explains agency action taken as a result of the comments. Three comments were received in response to the April 1, 2009, Federal Register notice.

Two respondents indicated concern that burden hours did not reflect the time-required to investigate, document, and review decisions to complete and file a SAR-DI.

Response: The burden hour estimate is not intended to capture the entire time for the SAR-DI completion process. 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. This recordkeeping requirement is not required to be duplicated in the banking regulators' burden figures.

A respondent suggested eliminating the SAR-DI 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-DI but applies to the 2006 version under current review.

Response: The SAR-DI form is being renewed without change. This comment may be further contemplated when changes to the form are being considered.

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

Response: The requirement to file a SAR-DI on continuing activity every 90 days is set forth in FinCEN guidance⁵ and is outside the scope of the SAR-DI form renewal process.

⁵ Bank Secrecy Act Advisory Group, "Section 5 — Issues and Guidance," *The SAR Activity Review—Trends, Tips & Issues*, Issue 1, October 2000, page 27 at www.fincen.gov.

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

Response: Cost noted.

A respondent recommended amending the current process for correcting previously filed SAR-DIs to the process currently used to amend previously filed currency transaction reports (CTR's).

Response: In a separate endeavor from the SAR-DI form renewal process, FinCEN is currently in the process of developing a SAR receipt acknowledgement and correction process. While several issues regarding processing must be addressed and finalized, FinCEN has established a target date of late 2009 to test the new SAR acknowledgement part of the process.

A respondent noted that currently, financial institutions that use a manual process to complete the SAR-DI form are required to print the entire form package in order to access additional pages for added narrative and suspect descriptions. The respondent suggested that the agencies consider providing additional narrative and suspect pages similar to page two of the Currency Transaction Report (CTR), which allows financial institutions to document additional information when multiple individuals are involved in a transaction.

Response: The SAR-DI form is being renewed without change. This comment may be further contemplated when changes to the paper SAR-DI form are being considered. Effective June 27, 2009, FinCEN will convert the current BSA E-File system to adobe Forms. The new filing system is supported by a dynamic forms package that supports adding multiple subjects, and expanded narratives as required. The BSA E-File system is secure and supports both discreet (single) and bulk filing requirements.

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 SAR-DIs is expressly prohibited from disclosure under 31 U.S.C. 5318(g)(2), 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.

Estimated number of respondents: FDIC 5,184

Estimated total annual responses: FDIC 133,151

Estimated total annual burden hours: FinCEN has estimated 60 minutes for form completion. FinCEN assumes an additional 60 minutes for recordkeeping as required under 31 FR 103.18.

Estimated total annual burden hours: FDIC 133,151 hours⁶

13. Estimated Annual Cost.

Not applicable.

14. Estimated Annualized Cost to Federal Government.

Not applicable.

15. Reasons for change in Burden.

An apparent increase in suspicious activity has resulted in an increase in total filings.

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

18. Exceptions.

Not applicable.

⁶ Only one form is filed in satisfaction of the rules of both FinCEN and the Supervisory Agencies. The estimated burden per form is 60 minutes; the hourly burden does not attempt to allocate that time between agencies when the form is filed in satisfaction of the rules of more than one agency. The burden hours listed for FinCEN include an additional 60 minutes for recordkeeping.

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 follow:

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