

SUPPORTING STATEMENT
FinCEN Suspicious Activity Report
OMB Control Number 1506-0065

1. Circumstances Necessitating Collection of Information

In 1992, the Treasury was granted broad authority to require suspicious transaction reporting under the Bank Secrecy Act (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 (31 CFR 1020.320).

FinCEN and the bank regulators adopted the suspicious activity report (“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, (§1020.320) In separate actions FinCEN expanded the SAR reporting to money services businesses (March, 2000, 31 CFR 1022.320), broker dealers in securities (July, 2002, 31CFR 1023.320), casinos (September 2002, §1021.320) certain futures commission merchants (November, 2003, §1026.320), life insurance companies (November 2005, §1025.320), mutual funds (May, 2006, §1024.320), and non-bank residential mortgage lenders and originators (31 CFR 1029.320).

All reporting financial institutions are required to retain a copy of any SAR filed and supporting documentation for the filing of the SAR for five years. See the above listed 31 CFR references and 31 CFR 1010.430. These documents are necessary for criminal investigations and prosecutions.

The filing of a SAR is necessary to prevent and detect the laundering of money and other funds at the filing institutions.

2. Method of Collection and Use of Data.

The information collected under this requirement is made available to appropriate agencies and organizations as disclosed in FinCEN’s Privacy Act System of Records Notice relating to BSA Reports¹.

3. Use of Improved Information Technology to Reduce Burden.

Using a computerized dynamic form provided by BSA E-filing, a financial institution may reduce the time required for its compliance staff to complete the information collection tool. A “fill-in” version is also available that may be completed and filed on the FinCEN BSA E-Filing website (<http://bsaefiling.fincen.treas.gov/main.html>).

¹ Department of the Treasury bureaus such as FinCEN renew their System of Records Notices every three years unless there is cause to amend them more frequently. FinCEN's System of Records Notice for BSA Reports System was most recently published at 77 FR 60014-60022 (October 1, 2012).

4. Efforts to Identify Duplication.

Prior to the development of the SAR filing system over 13 years ago, each of the bank regulators required banks to submit similar information on separate forms and Treasury collected similar information from financial institutions as part of its currency transaction report. The SAR takes the place of all these separate collections of information on suspicious activity and thus eliminates duplication.

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

The design of the FinCEN SAR is such that only the fields normally associated with the filing institution are displayed. This design minimizes the time required to complete the report and thus the impact on small businesses.

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

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

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

The reporting of suspicious activity on a FinCEN 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 3 years because the substantive violations of law that are reported on the FinCEN SAR are generally subject to statutes of limitation 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 FinCEN SAR was developed in conjunction with the Federal financial institution regulators, the Internal Revenue Service, the Department of Justice and its law enforcement agencies, and the Department of Homeland Security and its law enforcement agencies.² Additional input was received from the Bank Secrecy Act Advisory Group. FinCEN issued a Federal Register notice (60-day notice, see 77 FR 70545, November 26, 2012) requesting public comment on the proposal to renew without change the data elements of the electronic FinCEN SAR (Report 111).

²The requirement to file a FinCEN SAR and maintain records of the supporting documentation is embodied in 31 CFR Chapter X in the following: §§1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, and 1026.320. Chapter X became effective March 1, 2011.

We received no comments in response to this notice.

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 the FinCEN SAR is expressly prohibited from disclosure under 31 U.S.C. 5318(g)(2), and the participating agencies' Privacy Act notice³ makes clear that the system of records is intended for the official use of law enforcement, appropriate agencies and organizations, and financial institution regulators. Appropriate system security safeguards are 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: 84,655 (broker-dealers in securities, casinos and card clubs, depository institutions, futures commission merchants, insurance companies, money services businesses, mutual funds, and non-bank residential mortgage lenders and originators).⁴

Estimated total annual responses: 1,642,160.⁵

Estimated total annual burden hours: FinCEN has estimated 60 minutes for reporting and an additional 60 minutes for recordkeeping as required under the SAR rules and 31 CFR 1010.430.

Total burden hours: 3,284,320 hours.⁶

A joint filing will increase the burden to 90 minutes reporting and 60 minutes recordkeeping for a total of 2 and ½ hours per report.⁷

13. Estimated Annual Cost.

Not applicable.

³ See 77 FR 60014, October 1, 2012 for complete description of all exemptions.

⁴ The following OMB Control numbers have been reduced to a burden of one (1) hour each in order to maintain the rule active: 1506-0006 (31 CFR 1021.320), 1506-0015 (31CFR 1022.320), 1506-0019 (31 CFR 1023.320, §1024.320, §1026.320), 1506-0029 (31 CFR 1024.320), and 1506-0061 (31 CFR 1029.320).

⁵ Based on actual filings for calendar year 2012.

⁶ The estimated burden for completing a single report by a single institution.

⁷ Two or more separate financial institutions collaborating to file a single SAR. This type of filing constitutes less than 1% of total filings.

14. Estimated Annualized Cost to Federal Government.

Not applicable.

15. Reasons for change in Burden.

The PRA burden for the FinCEN SAR retains the current two-hour burden for each individual filed report. The increase in burden reflects more frequent reporting by the financial industry and accounts for the addition of non-bank residential mortgage lenders and originators as reporting financial institutions.

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 report.

18. Exceptions.

Not applicable.