

SUPPORTING STATEMENT
Suspicious Activity Report by Depository Institutions
3133-0094
June 2013

1. Circumstances Necessitating Collection of Information

In 1992, the U.S. Treasury was granted broad authority to require suspicious transaction reporting under the Bank Secrecy Act (BSA). See 31 U.S.C. 5318(g). The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN), which has been delegated authority to administer the Bank Secrecy Act, joined with the bank regulators¹ in 1996 in requiring, on a consolidated form (the SAR-DI form), reports of suspicious transactions.² The filing of SAR-DIs is necessary to prevent and detect the laundering of money and other funds at banks.

FinCEN and the bank regulators adopted the SAR in 1996 to simplify the process through which banks³ 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. FinCEN and the bank regulators renewed the 2006 version of the form in 2009.

As BSA administrator, FinCEN transitioned from a system originally designed for collecting industry specific paper forms to a modernized information technology environment centered on electronic reporting. Based on financial institution type, depository institutions, broker-dealers in securities, futures commission merchants and introducing brokers in commodities, insurance companies, mutual funds, money services businesses, and casinos previously filed reports on four separate forms. FinCEN's objective is to have one electronically-filed dynamic and interactive BSA-SAR that will be used by all filing institutions to report suspicious activity as of April 1, 2013.

FinCEN proposed several new data fields and introduced data fields from the SARs of other industries. On March 29, 2012, FinCEN released guidance⁴ titled, "Filing FinCEN's new Currency Transaction Report and Suspicious Activity Report". This guidance clarified expectations and notes that FinCEN is making available additional and more specific data elements (i.e., characterizations of suspicious activity and types of financial services) as a more efficient way to bring information about suspicious activity to the attention of FinCEN and law enforcement. The guidance clarified the addition of new and expanded data elements does not create an expectation

¹ The four federal functional institution supervisory agencies are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller Currency, and the National Credit Union Administration.

² See 12 CFR 208.62, 211.5(k), 211.24(f), and 225.4(f) (Board of Governors of the Federal Reserve System); 12 CFR 353 (Federal Deposit Insurance Corporation); 12 CFR 748 (National Credit Union Administration); 12 CFR 21.11 (Office of the Comptroller of the Currency); and 31 CFR 1020.320 (FinCEN).

³ Under the BSA, as implemented by 31 CFR 1010.100, 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.

⁴ http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2012-G002.pdf

that financial institutions will revise internal programs, or develop new programs, to capture information that reflects the expanded lists.

Credit unions are required to retain a copy of the BSA-SAR filed and supporting documentation for the filing of the BSA-SAR for five years. See 31 CFR 1020.320(d) and 31 CFR 1010.430. 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 credit unions are collected through the filing of a BSA-SAR by credit unions with FinCEN. FinCEN has created a modernized information system database to operate the computer system containing the information collected. FinCEN provides 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 BSA-SARs 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. The direct link to BSA E-filing form can be found at <http://www.fincen.gov>.

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 BSA-SAR 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 electronic BSA-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 BSA-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 BSA-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 more than 3 years because substantive violations of the law that may be indicated by the activity reported on the BSA-SAR 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.

As set forth above, the SAR was originally developed in 1996 by an interagency group that consisted of the federal banking agencies, the U.S. Departments of Justice and Treasury, and several law enforcement agencies. The requirement to file a SAR and maintain records of the supporting documentation was adopted in 1996 after notice and comment procedures. The general framework of the BSA-SAR report and revisions to the BSA-SAR data elements have been discussed on an interagency basis. The SAR supports the action taken by the agencies in furtherance of the goals of the Attorney General's Bank Fraud Working Group.

Notice of the proposed collection and request for public comment published in the Federal Register with a 60-day comment period (78 FR 43234) on July 19, 2013. NCUA received no comments on this collection.

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 BSA-SARs 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: NCUA 6,753

There are a total of 6,753 possible respondents for NCUA as that is the current total number of credit unions.

Estimated total annual responses: NCUA 67,537

The estimated total annual responses are based upon the number of SAR filings by credit unions in year 2012.

Estimated total annual burden hours: NCUA has estimated 2 hours for form completion.

Estimated total annual burden hours: NCUA 135,074 hours

13. Estimated Annual Cost.

No annual cost.

14. Estimated Annualized Cost to Federal Government.

No cost to the federal government.

15. Reasons for change in Burden.

The increase in suspicious activity has resulted in an increase in total filings. The increase in the total number of responses is due to the credit unions' increased awareness of the requirement of when to file a SAR, as well as improved suspicious activity monitoring systems. Due to the changes in the BSA-SAR, the annual burden was increased from 1 hour to two hours per response to allow for additional time to become familiar with the completion of the new form.

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.