

Supporting Statement
Requirement for Information Sharing Between Government Agencies and Financial Institutions
(OMB Control Number 1506-0049)

1. Circumstances Necessitating Collection of Information.

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA PATRIOT Act”), Public Law 107-56 (“the Act”). Title III of the Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314 and 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (“the Secretary”) to administer the BSA has been delegated to the Director of the Financial Crimes Enforcement Network (“FinCEN”).

Of the Act’s many goals, the facilitation of information sharing among governmental entities and financial institutions for the purpose of combating terrorism and money laundering is of paramount importance. Section 314 of the Act furthers this goal by providing for the sharing of information between the government and financial institutions, and among financial institutions themselves. As with many other provisions of the Act, Congress charged the U.S. Department of the Treasury with developing regulations to implement these information-sharing provisions.

Subsection 314(a) of the Act states in part that:

[t]he Secretary shall . . . adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.¹

The rule implementing this subsection can be found at 31 CFR 1010.520.

2. Method of Collection and Use of Data.

The information contained in the 314(a) request is used, primarily, by criminal investigators during the course of investigations that involve suspected terrorism and/or money laundering.

3. Use of Improved Information Technology to Reduce Burden.

Currently, 100% of this collection is filed using automated technology through FinCEN’s Liaison Division.

4. Efforts to Identify Duplication.

¹ Pub. L. 107-56, Title III, § 314, Oct. 26, 2001, 115 Stat. 307, as amended by Pub. L. 108-458, Title VI, § 6202(f), Dec. 17, 2004, 118 Stat 3745.

There is no similar information available; thus, there is no duplication.

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

This collection of information does not significantly impact small entities.

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

The renewal, without change, to this collection of information renews the process through which the Federal government complies with a self-executing Mutual Legal Assistance Agreement with the European Union. The President ratified this treaty on September 23, 2008, with the advice and consent of the United States Senate. Without this collection of information, the Federal Government would be in violation of the Mutual Legal Assistance Agreement, and law enforcement would lose a significant investigatory capability.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

There are no special circumstances.

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

On February 29, 2016, (See 81 FR 10366) FinCEN published in the Federal Register a 60-day notice requesting public comment on the FinCEN proposal to renew without change the requirement for information sharing between government agencies and financial institutions. FinCEN received no comments in response to the public notice.

9. Payments and Gifts.

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information collected in a 314(a) request is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel solely in the official performance of their duties.

11. Justification of Sensitive Questions.

There are no questions of a sensitive nature in the collection of information. Any personally identifiable information collected under the Bank Secrecy Act is strictly controlled as outlined in FinCEN's Systems of Records Notice http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf.

12. Estimated Annual Hourly Burden.

Frequency: Bi-weekly.

Estimated Number of Respondents: 20,134.²

Estimated Time Per Respondent: 54 hours annually.³

Estimated Total Annual Burden Hours: 1,087,236.⁴

13. Estimated Annual Cost to Respondents for Hour Burdens.

Not applicable.

14. Estimated Annual Cost to the Federal Government.

Not applicable.

15. Reason for Change in Burden.

There is no change in the reflected burden.

16. Plans for Tabulation, Statistical Analysis, and Publication.

This collection of information will not be published.

17. Request not to Display Expiration Date of OMB Control Number.

Not Applicable.

18. Exceptions.

Not Applicable.

² On an annual basis, there are approximately 20,134 covered financial institutions, consisting of commercial banks, savings associations, credit unions, securities broker-dealers, future commission merchants, certain trust companies, life insurance companies, mutual funds, and money services businesses.

³ Estimated cases/subjects per annum subject to the Paperwork Reduction Act include: 10 from FinCEN, 50 from state/local law enforcement, and 30 from European Union countries approved by treaty, for a total of 90 requests per annum, and each request generally contains nine subjects (including aliases). Each subject requires 4 minutes to research, resulting in $(90 \times 9 \times 4 \div 60) = 54$ hours per year.

⁴ Burden computation is as follows: 54 hours per year per respondent times 20,134 respondents $(54 \times 20,134) = 1,087,236$ hours.