

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

1. Circumstances Necessitating Collection of Information.

In 1992, the Department of the Treasury was granted broad authority to require suspicious transaction reporting under the Bank Secrecy Act (31 U.S.C. 5318(g)) (the “BSA”). FinCEN, which has been delegated authority to administer the BSA, joined with the bank regulators in 1996 in requiring reports of suspicious transactions on a consolidated form (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 (31 CFR 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, 31 CFR1021.320), certain futures commission merchants (November 2003, 31 CFR1026.320), life insurance companies (November 2005, 31 CFR1025.320), mutual funds (May 2006, 31 CR1024.320), non-bank residential mortgage lenders and originators (February 2012, 31 CFR 1029.320), and government-sponsored enterprises (February 2014, 31 CFR 1030.320). The SAR report is FinCEN 111 or FinCEN SAR.

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 detect and prevent 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 Reports.¹

3. Use of Improved Information Technology to Reduce Burden.

Using a computerized dynamic batch filed report 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” discrete (individual) version is also available that may be completed and filed on the FinCEN BSA E-Filing website (<http://bsaefiling.fincen.treas.gov/main.html>).

4. Efforts to Identify Duplication.

Prior to the development of the SAR filing system more than 16 years ago, each of the bank regulators required banks to submit similar information on separate forms and Treasury/FinCEN collected similar information from financial institutions as part of its currency reporting system. The FinCEN SAR replaces all six of these separate collections of information

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 79 FR 20969 (April 14, 2014).

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 to the Federal Government of Not Collecting the Information.

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 U.S. 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, 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 five years because the substantive violations of law that are reported on the FinCEN SAR are generally subject to statutes of limitation longer than five years.

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 2, 2017, FinCEN published a 60-day notice in the *Federal Register* (82 FR 9109) inviting public comment on the proposed update to the FinCEN SAR data elements to include the addition of cyber data collection elements and updated individual elements to this information collection. FinCEN received 29 comments. A list of the respondents is provided in the public comments section of this ICR. Provided along with the list of respondents is a disposition sheet list the actions taken in response to the individual comments. The comments are posted at www.regulations.gov. Search on Fincen-2017-0002; select “Document Type” as “Public Submission.”

9. Payments or Gifts.

There were no payments or gifts 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 notice² 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.

² See 79 FR 20969, April 14, 2014 for complete description of all exemptions.

11. Justification of Sensitive Questions.

There are no questions of a sensitive nature in the collection of information. Any personally identifiable information (“PII”) collected under the BSA is strictly controlled as outlined in the FinCEN’s Systems of Records Notice http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf. BSA reports are not subject to FOIA requests.

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).³

Estimated total annual responses: 2,019,022.⁴

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: 4,038,044 hours.⁵

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.⁶

13. Estimated Annual Cost to Respondents for Hourly Burdens.

Estimated burden cost: 4,038,044 hours X \$33.77 per hour = \$136,364,746.⁷

14. Estimated Annual Cost to the Federal Government.

Electronic processing cost to the Federal Government 2,019,022 responses X \$0.10 per response = \$201,902.⁸

15. Reasons for change in Burden.

³ The following OMB Control numbers have been reduced to a burden of one (1) hour each in order to maintain the rule active: 1506-0001 (31 CFR 1020.320), 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), and 31 CFR 1030.320 which covers Government Sponsored Enterprises (GSEs). GSEs are not subject to the Paperwork Reduction Act and are not included in the burden calculation.

⁴ Based on actual filings for calendar year July 1, 2016 through June 30, 2017.

⁵ The estimated burden for completing a single report by a single institution (Responses X 2 hours).

⁶ Two or more separate financial institutions collaborating to file a single SAR. This type of filing constitutes less than 1% of total filings.

⁷ The above Average Hourly Wage Rate is calculated from the May 2016 Bureau of Labor Statistics average wage for “13-1041 Compliance Officers” of \$33.77.

⁸ Cost per response received as listed in the BSA E-Filing Federal contract for 2017.

The burden increased by 753,822 hours and 376,911 responses to reflect the completion of several collections of information under a PATRIOT Act Section 311 action that was approved by OMB and the issuance of General Targeting Orders in New York, New York, and Miami Florida which resulted in increased SAR reporting.

16. Plans for Tabulation, Statistical Analysis and Publication.

There are no plans for tabulation, statistical analysis and publication.

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

To avoid having to amend the electronic report just to show a new date, FinCEN is requesting permission not to display the OMB expiration date on the FinCEN SAR report.

18. Exceptions.

There are no exceptions to the certification statement.