

Supporting Statement
OMB Control Number 1506-0001
Reports by Banks of Suspicious Transactions

1. Circumstances Necessitating Collection of Information.

The statute generally referred to as the “Bank Secrecy Act, (BSA)” Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of the Financial Crimes Enforcement Network (FinCEN).

FinCEN, which has been delegated authority to administer the BSA, joined with the bank regulators in 1996 in requiring reports of suspicious transactions (SAR).² The filing of a SAR is necessary to prevent and detect the laundering of currency and other funds at banks.

Banks are required to retain a copy of any SAR filed, as well as any supporting documentation for the filed SAR, for five years. See 31 CFR 1020.320 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, though, or otherwise involving banks are collected by regulation through the filing of a SAR with FinCEN. FinCEN provides on-line access to the information collected to Federal regulators and appropriate law enforcement agencies. FinCEN and law enforcement agencies use the information on SARs and the supporting documentation retained by the banks for criminal investigation and prosecution purposes.

3. Use of Improved Information Technology to Reduce Burden.

By using FinCEN’s electronic filing system (BSA E-filing), a bank can reduce the time required for its compliance staff to complete the report. Discrete and batch versions are available on the FinCEN BSA E-File web site at <http://bsaefiling.fincen.treas.gov/main.html>.

¹ Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, P.L. 107-56.

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).

4. Efforts to Identify Duplication.

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

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

The design of the SAR is such that only the fields normally associated with the filing institution type are displayed (*e.g.*, bank-specific information for banks or casino-specific information for casinos required for completion). 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 SAR reporting 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 SARs were no longer required, law enforcement and regulatory efforts to fight crime and protect the safety and soundness of banks, and, more broadly, 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 SAR may occur more frequently than quarterly, depending on the frequency of the activity. For reasons explained in paragraph six 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 three years because substantive violations of the law that may be indicated by the activity reported on the SAR are generally subject to statutes of limitations longer than three 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 9, 2018, (See 83 FR 5829) FinCEN published in the Federal Register a notice inviting comment for 60 days on renewal of the Depository Institution SAR Regulation. Two comments were received.

A representative of a credit union, provided a repeat comment that he submitted to an earlier notice regarding updating the BSAR (See www.regulations.gov, search docket number Fincen-2017-0011) stating that FinCEN had failed to respond to his submission. No new information was provided for this notice request. FinCEN did respond to this comment and provided our disposition to all of the comments received to the BSAR update to the Office of Management and Budget, Treasury Desk Officer on November 2, 2017 for review.

The Clearing House (TCH) provided the second comment. THC's comment did not address the current burden as requested in the PRA. Rather, THC comment reiterated extensive recommendations on reforming the Bank Secrecy Act (BSA) in general and attached two

documents previously submitted to the Department of the Treasury and to FinCEN. The two documents are TCH's comment to the Treasury, dated July 31, 2017, submitted in response to Treasury's *Review of Regulations* issued in furtherance of Executive Orders 13771 and 13777, and THC's February 2017 white paper "*A New Paradigm: Redesigning the U.S. AML/CFT Framework to Protect National Security and Aid Law Enforcement*)." FinCEN is aware of THC's recommendations is considering them in process of other rulemakings.

9. Payments or Gifts.

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information provided to the government on the SAR 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.

There are no questions of a sensitive nature in the collection of information. Any personally identifiable information collected under the BSA 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.

The administrative burden of one hour is assigned to maintain the regulatory requirement in force. The burden for actual reporting is reflected in OMB Control number 1506-0065.

13. Estimated Annual Cost to Respondents for Hourly Burdens.

Estimated burden cost: One hour X \$33.77 per hour = \$33.77.³

14. Estimated Annualized Cost to Federal Government.

Electronic processing cost to the Federal Government for 2,019,022 responses X \$0.10 per response = \$201,902.⁴

15. Reasons for Change in Burden.

³ The above Average Hourly Wage Rate is calculated from the May 2017 Bureau of Labor Statistics average wage for "13-1041 Compliance Officers" of \$33.77.

⁴ Cost per response received as listed in the BSA E-Filing Federal contract for 2018.

There is no change in burden.

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.

FinCEN requests that it not be required to display the expiration date so that the regulations will not have to be amended for the new expiration date every three years.

18. Exceptions.

There are no exceptions to the certification statement.