

SUPPORTING STATEMENT  
OMB Control Number 1506-0029  
Reports by Insurance Companies of Suspicious Transactions

1. Circumstances Necessitating Collection of Information.

The Bank Secrecy Act (BSA), Titles I and II of Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5330, authorizes the Secretary of the Treasury to issue regulations requiring records and 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, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures. Regulations implementing Title II of the BSA (codified-at 31 U.S.C. 5311-5330) appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA regulations has been delegated to the Director of the Financial Crimes Enforcement Network (FinCEN).

Under 31 U.S.C. 5318(g), the Secretary of the Treasury is authorized to require financial institutions, including insurance companies, to report suspicious transactions. Section 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Pub. L. No. 102-550.

Regulations implementing the suspicious activity reporting (SAR) requirement with respect to certain insurance companies, specifically, those insurance companies that sell “covered products,” are codified at 31 CFR 1025.320.<sup>1</sup> A transaction must be reported under section 1025.320 if the transaction is conducted or attempted by, at, or through an insurance company, involves or aggregates funds of at least \$5,000 and the insurance company knows, suspects, or has reason to suspect that the transaction or the pattern of transactions of which the transaction is a part:

- (i) involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity;
- (ii) is designed to evade a recordkeeping or reporting requirement of a regulation promulgated under the Bank Secrecy Act; or
- (iii) serves no business or apparent lawful purpose.

Section 1025.320(d) requires reporting insurance companies to retain a copy of any SAR filed and supporting documentation for five years. 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

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<sup>1</sup> As defined at 31 CFR 1025.100(b), “covered products,” means: a (1) a permanent life insurance policy, other than a group life insurance policy; (2) an annuity contract, other than a group annuity contract; or (3) any other insurance product with features of cash value or investment.

otherwise involving banks is 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 computerized 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>.

### 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 information collection will not have a significant economic impact on a substantial number of small entities. Insurance companies, rather than their agents or brokers, must file the reports, and most insurance companies are larger businesses. All insurance companies, in order to remain viable, have in place policies and procedures and internal controls to prevent and detect fraud. Such anti-fraud measures should assist insurance companies in reporting suspicious transactions. Finally, certain small companies may have an established and limited customer base whose transactions are well known to the company.

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

SAR reporting by insurance companies assists both law enforcement and the industry, providing improved detection of financial crime, analysis of trends, and coordination of investigative efforts. Failure to collect this information would limit law enforcement's ability to investigate and prosecute money laundering and other financial crimes conducted at or through these businesses.

### 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, FinCEN published in the Federal Register a notice inviting comment for 60 days on renewal of the Insurance Companies SAR Regulation (See 83 FR 5829). 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](http://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 have been 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 FinCEN's Privacy Act notice makes clear that the system of records is intended for the official use of law enforcement. Appropriate system security safeguards are 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 the FinCEN's Systems of Records Notice [http://www.fincen.gov/foia/files/FinCEN\\_79\\_FR\\_20969.pdf](http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf).

#### 12. Estimated Annual 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 Hour burdens.

Estimated burden cost: One hour X \$33.77 per hour = \$33.77.<sup>1</sup>

#### 14. Estimated Annual Cost to the Federal Government.

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

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<sup>1</sup> 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.

response = \$201,902.<sup>2</sup>

15. Reasons for Change in Burden.

There is no change in the 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 Office of Management and Budget 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.

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<sup>2</sup> Cost per response received as listed in the BSA E-Filing Federal contract for 2018.