

Supporting Statement  
OMB Control Number 1506-0050

Renewal Without Change of Administrative Ruling Regulations (Subpart G – 31 CFR 1010.710 through 31 CFR 1010.717).

1. Circumstances necessitating collection of information.

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by 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) and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act) (Division F of Public Law 116-283). The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5336, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, 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 AML programs and compliance procedures.<sup>1</sup> Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.<sup>2</sup>

A FinCEN administrative ruling is a written ruling interpreting the relationship between the regulations implementing the BSA at 31 CFR Chapter X and each situation for which such a ruling has been requested in conformity with the regulatory requirements. The regulations implementing the procedures for requestors to submit, and for FinCEN to issue, administrative rulings appear in Part 1010, Subpart G—Administrative Rulings, 31 CFR 1010.711-717. These subsections address administrative rulings under the BSA and explain how: (i) to submit a ruling request (1010.711), (ii) nonconforming requests are handled (1010.712), (iii) oral communications are treated (1010.713), (iv) to withdraw a request (1010.714), (v) rulings are issued (1010.715), modified or rescinded (1010.716), and (vi) information may be disclosed (1010.717). An administrative ruling has precedential value, and may be relied upon by others similarly situated, only if FinCEN makes it available to the public through publication on the FinCEN website or other appropriate forum.

2. Method of collection and use of data.

Administrative ruling requests can be sent to FinCEN through the U.S. Mail or

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<sup>1</sup> Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism. Section 6101 of the Anti-Money Laundering Act of 2020 added language further expanding the scope of the BSA, but did not disturb these longstanding purposes.

<sup>2</sup> Treasury Order 180-01 (re-affirmed Jan. 14, 2020).

electronically, for consideration and determination. The information presented in the request is used to respond to the requestor.

The ability of requestors to submit administrative ruling requests and receive a ruling from FinCEN allows financial institutions and other requestors to ensure they understand how to comply with the appropriate BSA regulations. Administrative ruling responses that would be useful to the general public are modified to limit disclosure of sensitive requestor information and posted on the FinCEN public website at [www.fincen.gov](http://www.fincen.gov). Administrative rulings that are published on FinCEN's website provide guidance to financial institutions and other requestors in complying with applicable BSA regulations.

### 3. Use of improved information technology to reduce burden.

Formal requests are received and responded to through the U.S. Mail and/or electronically.

### 4. Efforts to identify duplication.

Because all requests are unique to the issue addressed, there is no similar information available and no duplication.

### 5. Methods to minimize burden on small businesses or other small entities.

The requirements in the administrative ruling regulations only apply when a requestor is requesting an interpretation of the BSA regulations, such as when the regulations may relate to the requestor's business activities. Regardless of its size, an entity requesting an administrative ruling needs to be familiar with its own business activities in order to provide the information needed in an administrative ruling request. For example, the regulations require each request to be in writing and include a complete description of the situation for which the ruling is requested, as well as a concise and unambiguous question to be answered. As a result, FinCEN concludes that the regulatory requirements that must be followed in order to submit an administrative ruling request should not pose any adverse impact on small businesses. FinCEN does not consider it possible to further reduce the burden for small businesses.

### 6. Consequences to the Federal government of not collecting the information.

The ability to submit administrative ruling requests and receive a ruling assists a requestor in complying with the appropriate BSA regulations. Responses that would be useful to the general public are modified to limit the disclosure of sensitive requestor information and posted on FinCEN public website at [www.fincen.gov](http://www.fincen.gov). Administrative rulings that are published on FinCEN's website, because they may be relied upon by others similarly situated, help financial institutions and other entities ensure that they are complying with applicable BSA regulations, and assist FinCEN in ensuring that the BSA requirements are being uniformly applied to similarly situated entities.

7. Special circumstances requiring data collection inconsistent with guidelines.

There are no special circumstances requiring data collection inconsistent with standard guidelines.

8. Consultation with individuals outside of the agency on availability of data frequency of collection, clarity of instructions and forms, and data elements.

The 60-day notice was published on December 11, 2020.<sup>3</sup> The notice requested public comments on the proposed renewal, without change, of currently approved information collections relating to administrative ruling requests. FinCEN received no comments in response to the notice.

9. Explanation of decision to provide any payment or gift to respondents.

No payments or gifts were made to respondents.

10. Assurance of confidentiality of responses.

31 CFR 1010.717 outlines circumstances under which information submitted in an administrative ruling request will be disclosed.

11. Justification of sensitive questions.

There are no requirements to provide information of a sensitive nature in an administrative ruling request. However, in describing an entity's business, the entity may view some of the information to be proprietary. 31 CFR 1010.717 (disclosing information) outlines how a requestor can request that certain information be exempted from disclosure under the Freedom of Information Act.

12. Estimated burden of information collection.

Frequency: As required.

Estimated Number of Respondents: 33 administrative ruling requests.<sup>4</sup>

Estimated Number of Annual Requests: 33 administrative rulings.

Estimated Total Annual Burden:

The requirements in the administrative ruling regulations only apply in instances in which a requestor is requesting an interpretation of the BSA regulations as they relate to the requestor's business. Requestors will have familiarity with their business in order

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<sup>3</sup> 85 FR 80227 at <https://www.federalregister.gov/documents/2020/12/11/2020-27370/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of>.

<sup>4</sup> In 2018, 2019, and 2020, FinCEN received a combined total of 98 administrative ruling requests.

to provide the information needed in an administrative ruling request. For that reason, FinCEN estimates that it will take an entity approximately two hours to draft and submit an administrative ruling request.

FinCEN receives approximately 33 administrative ruling requests per year. FinCEN therefore estimates the total annual recordkeeping burden will be 66 hours (33 administrative ruling requests multiplied by two hours per request).

13. Estimated cost of information collection.

Estimated Total Annual Labor Cost: \$6,916.14 (66 hours x \$104.79<sup>5</sup> per request). There are no out-of-pocket costs to respondents.

14. Estimated annual cost to the Federal government.

FinCEN receives 33 requests on an annual basis. FinCEN estimates that it will take a GS 14 step 1 (\$58.71 per hour) ten hours to review and respond to an administrative ruling request. (\$58.71 x 33 requests x 10 hours per request = \$19,374.30).

15. Reason for change in burden.

The estimated total annual burden hours decreased from 120 hours to 66 hours since the last control number renewal in calendar year 2017. The estimated burden to submit a request for administrative ruling to FinCEN remained at 2 hours per entity. The decrease in burden is a result of a decrease in the estimate of the number requests submitted from 60 in 2017 to the average number of requests submitted between 2018 and 2020 (33 requests).

16. Plans for tabulation, statistical analysis, and publication.

This collection of information will not be tabulated or compiled for publication.

17. Request not to display the expiration date of the OMB control number.

FinCEN requests that the expiration date of the control number of the administrative ruling regulations not be displayed so that there is no confusion as to

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<sup>5</sup> The U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. The most recent data from the BLS corresponds to May 2019. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at <https://www.bls.gov/news.release/cec.nr0.htm>. The ratio between benefits and wages for financial activities is \$15.95 (hourly benefits)/\$32.05 (hourly wages) = 0.50. The benefit factor is 1 plus the benefit/wages ratio, or 1.50. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position. The May 2019 Bureau of Labor Statistics average hourly wage for "23-1011 Lawyers" is \$104.79 (\$69.86 x 1.50).

whether the regulation is still valid. This request will not affect the normal 3-year PRA renewal process.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.