

Supporting Statement
OMB Control Number 1506-0014
Report of Transportation of Currency or Monetary Instruments

1. Circumstances necessitating collection of information.

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign 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 (October 26, 2001), and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act).¹ The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, 31 U.S.C. 5311–5314 and 5316–5336, and includes notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury (the “Secretary”), *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.² The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.³

31 U.S.C. 5316 requires, with limited exceptions, that a person, or an agent or bailee of the person, file a report when the person, agent, or bailee knowingly: (i) transports, is about to transport, or has transported monetary instruments⁴ of more than \$10,000 at one time from a place in the United States to or through a place outside the United States, or to a place in the United States from or through a place outside the United States; or (ii) receives monetary instruments of more than \$10,000 at one time transported into the United States from or through a place outside the United States. The regulations implementing this statutory requirement are found at 31 CFR 1010.340.

31 CFR 1010.340(a) requires each person⁵ who physically transports, mails, or ships, or causes to be physically transported, mailed or shipped, or attempts to cause to be physically transported, mailed or shipped, currency⁶ or other monetary instruments⁷ in an aggregate amount

¹ The AML Act was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).

² 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 AML Act added language further expanding the scope of the BSA but did not amend these longstanding purposes.

³ Treasury Order 180-01.

⁴ For purposes of 31 U.S.C. 5316, monetary instruments is defined in 31 U.S.C. 5312(a)(3) as amended by section 6102(d)(1)(C) of the AML Act.

⁵ FinCEN regulations define a “person” as an individual, a corporation, partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities. 31 CFR 1010.100(mm).

⁶ FinCEN regulations define currency in 31 CFR 1010.100(m).

⁷ FinCEN regulations define monetary instruments in 31 CFR 1010.100(dd).

exceeding \$10,000 at one time from the United States to any place outside the United States, or into the United States from any place outside the United States, to file a CMIR.⁸

31 CFR 1010.340(b) requires each person in the United States who receives at any one time currency or other monetary instruments exceeding \$10,000 in the aggregate, which have been transported, mailed, or shipped to such person from any place outside the United States, to file a CMIR if the CMIR has not already been filed pursuant to 31 CFR 1010.340(a). The CMIR must include the amount, the date of receipt, the form of monetary instruments, and the person from whom the funds were received.

31 CFR 1010.340(c) includes a list of persons that are not required to file a CMIR, even if they satisfy the conditions of 31 CFR 1010.340(a) or (b). 31 CFR 1010.340(d) clarifies that a transfer of funds through normal banking procedures, which does not involve the physical transportation of currency or monetary instruments, is not required to be reported on the CMIR.

2. Method of collection and use of data.

According to the CMIR instructions, each person who receives currency or other monetary instruments in the United States must file a CMIR within 15 days after receipt of the currency or monetary instruments with the United States Customs and Border Protection (CBP) officer in charge at any port of entry or departure, or by mail. Travelers carrying currency or other monetary instruments with them must file the CMIR at the time they enter the United States or at the time they depart the United States with the CBP officer in charge at any port of entry or departure.

Information collected on the CMIR is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is of use in investigations involving international and domestic money laundering, tax evasion, fraud, and other financial crimes.

3. Use of improved information technology to reduce burden.

In early 2020, CBP implemented a web-based platform for the electronic completion of CMIRs by travelers transporting their own currency or monetary instruments. Travelers using this platform must still present the evidence of the electronic completion of the report to the CBP officer in charge at any port of entry or departure. See <https://fincen105.cbp.dhs.gov/#/>.

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 reporting requirements of these regulations and form should not pose any adverse

⁸ A person is deemed to have caused such transportation, mailing or shipping when he or she aids, abets, counsels, commands, procures, or requests it to be done by a financial institution or any other person. 31 CFR 1010.340(a).

impact on small businesses or other small entities. The reports only need to be filed when a person, or an agent or bailee of a person, transports, is about to transport, or has transported monetary instruments of more than \$10,000 at one time from a place in the United States to or through a place outside the United States, or to a place in the United States from or through a place outside the United States; or receives monetary instruments of more than \$10,000 at one time transported into the United States from or through a place outside the United States. The information required to be reported on the CMIR is basic identifying and transaction information which would be readily accessible to a traveler or currency transporter. For instance, a traveler only has to report identifying information on themselves. A currency transporter has to report identifying information on itself, as well as on the person or business on whose behalf the currency is being transported.

6. Consequences of less frequent collection on Federal programs or policy activities.

Because the CMIR is filed at the time currency or monetary instruments of more than \$10,000 are transported into or out of the United States, a failure to collect this information could hamper law enforcement efforts to detect illegal activity while it is still ongoing and discernible. The timely reporting of this information provides law enforcement with important investigative leads in order to take appropriate action, including tracing criminal proceeds, gathering additional evidence, seizing funds, and stopping the movement of funds before criminal elements can change their schemes for disposing of the profits of illegal activity.

7. Special circumstances requiring data collection to be inconsistent with guidelines.

Pursuant to 31 CFR 1010.430(d), all records that are required to be retained by 31 CFR Chapter X must be retained for a period of five years. Records must be kept for five years because such records may relate to substantive violations of law that are subject to statutes of limitation 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.

The 60-day notice was published on March 23, 2022.⁹ The notice requested public comments on the proposed renewal, without change, of a currently approved information collection relating to regulations requiring reporting of international transportation of currency or monetary instruments. FinCEN did not receive any 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.

⁹ Financial Crimes Enforcement Network, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Report of International Transportation of Currency or Monetary Instruments; FinCEN Report 105*, 87 FR 16548, (March 23, 2022), available at <https://www.federalregister.gov/documents/2022/03/23/2022-06157/agency-information-collection-activities-proposed-renewal-comment-request-renewal-without-change-of>.

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 (SORN) relating to BSA reports.¹⁰

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 SORN.¹¹

12. Estimated annual hourly burden

- Frequency: As required.
- Estimated Number of Respondents: 184,709.¹²
- Estimated Number of Responses: 184,709 CMIRs, of which 14,296 are assumed to be filed by currency transporters and 170,413 are filed by travelers on behalf of themselves.¹³
- Estimated Burden per Respondent: 15 minutes per report filed by travelers reporting transactions involving their own currency or monetary instruments, and 30 minutes per report filed by currency transporters reporting transactions on behalf of others.
- Estimated Total Annual Respondent Burden: 49,751 hours (14,296 CMIRs multiplied by 30 minutes, plus 170,413 CMIRs multiplied by 15 minutes equals 2,985,075 minutes, or approximately 49,751 hours).

13. Estimated annual cost burden.

- Estimated Total Annual Cost to the Public: \$1,859,471 (\$1,637,669 for travelers and \$221,802 for currency transporters).
 - For travelers: \$1,637,669 (170,413 reports multiplied by the average fully loaded wage rate of \$38.44 per hour, multiplied by the ratio of 15 minutes/60 minutes, rounded up to the nearest hour and dollar).¹⁴

¹⁰ See FinCEN's System of Records Notice for the BSA System at 79 FR 20974, April 14, 2014 <https://www.federalregister.gov/documents/2014/04/14/2014-08254/privacy-act-of-1974-as-amended-system-of-records-notice>.

¹¹ *Id.*

¹² Using CBP data, FinCEN identified the number of CMIRs filed over the past five years, broken down by the dollar amount reported on individual CMIRs. Because the COVID-19 pandemic severely impacted cross-border travel during 2020 and, to a lesser degree, 2021, FinCEN restricted its average annual CMIR reporting estimate to the average number of CMIRs filed between 2017-2019. See *supra* note 9.

¹³ See *supra* note 9.

¹⁴ See *supra* note 9.

- o For currency transporters: \$221,802 (14,296 reports multiplied by the weighted fully loaded wage rate of \$31.03, multiplied by the ratio of 30 minutes/60 minutes, rounded up to the nearest hour and dollar).¹⁵

There are no non-labor costs associated with this collection of information.

14. Estimated annualized cost to the Federal government.

- Estimated Total Annual Cost to the Government: \$1,434,835.29, resulting from:
 - o CBP's processing cost: \$1,416,364.39.¹⁶
 - o FinCEN's upload and storing cost: \$18,470.90 (the estimated annual cost to FinCEN is \$0.10 per report, times the estimated number of annual reports (184,709 reports)).¹⁷

15. Reasons for change in burden.

The estimated total annual burden hours decreased by 90,249 hours from 140,000 hours in 2018, to 49,751 hours in 2022. The decrease is due to two factors. First, the annual hourly burden estimate per respondent changed from 30 minutes for all reports in 2018, to, in 2022, (i) 15 minutes per report filed by travelers reporting transactions involving their own currency or monetary instruments, and (ii) 30 minutes per report filed by currency transporters reporting transactions on behalf of others. Second, the reduction in burden is a result of a decrease in the estimated annual CMIRs from 280,000 in 2018, to 184,709 in 2022.

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

This collection of information will not be published.

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 CMIR not be displayed on the report so that there is no confusion as to whether the report is still valid. This request will not affect the normal three-year PRA renewal process.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.

¹⁵ See *supra* note 9.

¹⁶ According to CBP, between July 1, 2020 and June 30, 2021, processing paper CMIRs cost \$1,116,364.39. According to CBP, the annual cost to process electronic CMIRs is \$300,000. (\$1,116,364.39 + \$300,000 = \$1,416,364.39).

¹⁷ The estimated cost to FinCEN per BSA report submitted to FinCEN is \$0.10.