

Supporting Statement
Requirement for Information Sharing Between Government Agencies and Financial Institutions
(OMB Control Number 1506-0049)

1. Circumstances Necessitating Collection of Information.

On October 26, 2001, the President signed into law 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 (“the Act”). Title III of the Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314 and 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (“the Secretary”) to administer the BSA has been delegated to the Director of the Financial Crimes Enforcement Network (“FinCEN”).

Of the Act’s many goals, the facilitation of information sharing among governmental entities and financial institutions for the purpose of combating terrorism and money laundering is of paramount importance. Section 314 of the Act furthers this goal by providing for the sharing of information between the government and financial institutions, and among financial institutions themselves. As with many other provisions of the Act, Congress has charged the U.S. Department of the Treasury with developing regulations to implement these information-sharing provisions.

Subsection 314(a) of the Act states in part that:

[t]he Secretary shall . . . adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.

2. Method of Collection and Use of Data.

The information contained in the 314(a) request is used, primarily, by criminal investigators during the course of investigations that involve terrorism and/or money laundering.

3. Use of Improved Information Technology to Reduce Burden.

Currently, 100% of this collection is filed using automated technology through the FinCEN Analysis and Liaison Division.

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.

This collection of information does not significantly impact small entities.

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

This collection of information renews the process through which the Federal government complies with a self-executing Mutual Legal Assistance Agreement with the European Union. The President ratified this treaty on September 23, 2008, with the advice and consent of the United States Senate. Without this collection of information, the Federal Government would be in violation of the Mutual Legal Assistance Agreement, and law enforcement would lose a significant investigatory capability.

7. Special Circumstances Requiring Data Collection Inconsistent with Guidelines.

There are no special circumstances.

8. Consultation with Individuals Outside of the Agency on Availability of Data. Frequency of Collection, Clarity of Instructions and Forms, and Data Elements.

On December 13, 2012 (see 77 FR 74277), FinCEN published in the Federal Register a 60-day notice requesting public comment on the FinCEN proposal to renew without change the requirement for information sharing between government agencies and financial institutions. FinCEN received no comments in response to the public notice.

9. Payments and Gifts.

No payments or gifts were made to respondents.

10. Assurance of Confidentiality of Responses.

Information collected in a 314(a) request is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel solely in the official performance of their duties.

11. Justification of Sensitive Questions.

No sensitive questions are asked.

12. Estimated Annual Hourly Burden.

Frequency: Bi-weekly.

Estimated Number of Respondents: 20,134.¹

Estimated Time Per Respondent: 54 hours annually.²

Estimated Total Annual Burden Hours: 1,087,236.³

13. Estimated Annual Cost to Respondents for Hour Burdens.

Not applicable.

14. Estimated Annual Cost to the Federal Government.

Not applicable.

15. Reason for Change in Burden.

The burden associated with FinCEN section 314(a) reporting process is 100% electronic. A revision is being made to reflect an adjustment in the burden; reducing the burden by 362,412 hours.

16. Plans for Tabulation, Statistical Analysis, and Publication.

This collection of information will not be published.

¹ On an annual basis, there are approximately 20,134 covered financial institutions, consisting of commercial banks, savings associations, credit unions, securities broker-dealers, future commission merchants, certain trust companies, life insurance companies, mutual funds, and money services businesses.

² Estimated cases/subjects per annum subject to the Paperwork Reduction Act include: 10 from FinCEN, 50 from state/local law enforcement, and 30 from European Union countries approved by treaty, for a total of 90 requests per annum, and each request generally contains nine subjects (including aliases). Each subject requires 4 minutes to research, resulting in $(90 \times 9 \times 4 \div 60) = 54$ hours per year.

³ Burden computation is as follows: 54 hours per year per respondent times 20,134 respondents $(54 \times 20,134) = 1,087,236$ hours.

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

Not Applicable.

18. Exceptions.

Not Applicable.