

OMB Supporting Statement for the Suspicious Activity Report (FR 2230; OMB No. 7100-0212)

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the mandatory interagency Suspicious Activity Report (SAR) (FR 2230; OMB No. 7100-0212). As Bank Secrecy Act (BSA) administrator, the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) transitioned in 2013 from industry specific paper forms to one electronically-filed dynamic and interactive BSA-SAR used by all filing institutions. There are no changes to the SAR regulatory reporting criteria. Institutions will continue to follow Regulation H (12 C.F.R. 208.62), interagency guidance, and filing instructions to determine when a report should be filed and what information should be included on the report.

On February 26, 2013, the Federal Reserve received certification for the new BSA-SAR. The current total annual burden hours for all Federal Reserve supervised institutions is estimated to be 159,071 hours.

Background and Justification

Since 1996, the federal banking agencies¹ and FinCEN have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file SARs.² Law enforcement agencies use the information submitted on the reporting form to initiate investigations and the Federal Reserve uses the information in the examination and oversight of supervised institutions.

The Federal Reserve's suspicious activity reporting rules apply to state member banks, bank holding companies and their nonbank subsidiaries, Edge and agreement corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve. The Federal Reserve is only responsible for the paperwork burden imposed on these institutions. Other federal banking agencies account for the paperwork burden for the institutions they supervise.

The suspicious activity report filing requirement became effective on April 1, 1996. Prior to the effective date, the Federal Reserve, the other federal banking agencies, and FinCEN each issued new and nearly identical rules mandating the use of the interagency SAR for the reporting of suspicious activities. In separate actions, FinCEN also enacted regulations requiring other types of financial institutions, such as brokers or dealers in securities and futures; money services businesses (money transmitters; issuers and sellers of money orders and travelers'

¹ The Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

² In 1996, the Federal Reserve together with the other federal banking agencies issued nearly identical regulations to implement the SAR process for banking organizations.

checks; check cashers, and dealers in foreign exchange); casinos and card clubs; and insurance companies to file reports on suspicious activities.

In January 2003, check boxes were added to Part III of the SAR to note terrorist financing and identity theft as suspicious activities and the safe harbor language in the instructions was updated to reflect changes made by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001.

Use of the electronic BSA-SAR became mandatory on April 1, 2013, and is available form through FinCEN's BSA E-Filing System.

Description of Information Collection

State member banks, bank holding companies and their nonbank subsidiaries, Edge and agreement corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve follow the SAR instructions to determine when a SAR should be filed and what information should be included on the SAR.

Reporting Criteria

A banking institution must report certain known or suspected violations of federal law and suspicious transactions. An institution is generally required to file a SAR with respect to:

- suspicious activity of any amount involving an insider
- violations aggregating \$5,000 or more where a suspect can be identified
- violations aggregating \$25,000 or more regardless of a potential suspect
- violations aggregating \$5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act

An institution need not file a SAR for an attempted or committed burglary or robbery reported to the appropriate law enforcement agencies.

Time Schedule for Information Collection

The SAR rules require that a SAR be filed no later than 30 calendar days from the date of the initial detection of facts that may constitute a basis for filing a SAR. If no suspect can be identified, the time period for filing a SAR is extended to 60 days. Respondents file online: <http://bsaefiling.fincen.treas.gov/main.html>.

Legal Status

The Board's Legal Division has determined the SAR is required by law pursuant to the International Banking Act (12 U.S.C. §§ 248(a)(1), 3105(c)(2), 3106(a), and 625), the Bank Holding Company Act (12 U.S.C. § 1844(c)), and the Federal Deposit Insurance Act (12 U.S.C. 1818(s)). The obligation to file a SAR is set forth in the Board's rules and is mandatory for:

- state member banks (12 C.F.R. 208.62(c)),
- entities subject to the Bank Holding Company Act and their nonbank subsidiaries (12 C.F.R. 225.4(f)),
- Edge and agreement corporations (12 C.F.R. 211.5(k)), and
- U.S. branches, agencies, and representative offices of foreign banks (12 C.F.R. 211.24(f)).

BSA-SARs are exempt from Freedom of Information Act (FOIA) disclosure by 31 U.S.C. 5319, which specifically provides that SARS “are exempt from disclosure under section 552 of title 5”, and FOIA exemption 3 (5 U.S.C. § 552(b)(3)) (matters “specifically exempted from disclosure by statute”).

Consultation Outside the Agency

As set forth above, the SAR was originally developed in 1996 by an interagency group that consisted of the federal banking agencies, the U.S. Departments of Justice and Treasury, and several law enforcement agencies. The general framework of the BSA-SAR report and any revisions to the BSA-SAR data elements would be discussed on an interagency basis. There are currently no proposed revisions to the BSA-SAR data elements.

On October 22, 2015, the Federal Reserve published a notice in the *Federal Register* (80 FR 64000) requesting public comment for 60 days on the extension, without revision, of this information collection. The comment period for this notice expired on December 21, 2015. The Federal Reserve did not receive any comments. On December 29, 2015, the Federal Reserve published a final notice in the *Federal Register* (80 FR 81324).

Estimate of Respondent Burden

The burden per institution varies depending on the nature of the activity being reported. Between January 1, 2014, and December 31, 2014, 5,489 state member banks, bank holding companies, Edge and agreement corporations, and U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks filed 106,057³ BSA-SARs. Based on this data the annual reporting burden hours for all Federal Reserve regulated entities is estimated to be 159,071. The proposed burden represents approximately 1 percent of total Federal Reserve System paperwork burden.

³ Number of BSA-SARs received by FinCEN between January 1, 2014, and December 31, 2014, which were depository institutions regulated by the Federal Reserve.

FR 2230	<i>Number of respondents⁴</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
All Respondents	5,489	19.32	1.5	159,071

The total cost to the public is estimated to be \$8,231,924.⁵

Sensitive Questions

This reporting form contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System is negligible. The Federal Reserve, as well as the other federal supervisors of financial institutions, distributes the reporting form in electronic format. The Federal Reserve System has minimal data collection costs associated with SAR filings, as the filings go directly to FinCEN which acts as the data base manager for the federal banking agencies and makes the information available to the Federal Reserve electronically.

⁴ Of the 5,489 respondents required to comply with this information collection, 637 of the respondents are considered a small entity as defined by the Small Business Administration (i.e., entities with \$550 million or less in total assets) www.sba.gov/content/small-business-size-standards.

⁵ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$17, 45% Financial Managers at \$63, 15% Lawyers at \$64, and 10% Chief Executives at \$87). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2014*, published March 25, 2015 <http://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.