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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Collection; Comment Request; Bank Secrecy Act Currency Transaction Report (BCTR) Revised Layout and Proposed Additional Data Fields

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN published the revised Bank Secrecy Act Currency Transaction Report (“BCTR”) in March 2011. The BCTR was designed to facilitate financial institutions reporting the most frequently encountered transaction scenarios. Since that time, FinCEN has become aware that the current report is not configured to allow for alternative reporting models that have developed in the last few years, such as reports filed by a parent company on behalf of its subsidiary. To remedy some of the limitations of the current BCTR, FinCEN now proposes an amended report. This notice does not propose any new regulatory requirements or changes to the requirements related to currency transaction reporting, but rather seeks input on technical matters designed to improve the layout and reporting of the BCTR. This request for comments covers 31 CFR 1010.310. This request for comments is made pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: Written comments should be submitted to: Office of Regulatory Policy, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, “Attention: PRA Comments—BCTR Revision.”

Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.gov, with the caption, “Attention: BCTR Revision” in the body of the text. Please submit by one method only. All comments submitted by either method in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

Inspection of comments. Comments will be posted on the FinCEN public website.

Persons wishing to review the comments submitted may access the posted comments by going to https://www.fincen.gov/forms/bsa_forms/.

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1-800-767-2825 or 1-703-905-3591 (not a toll free number) and select option 3 for regulatory questions. E-mail inquiries can be sent to FRC@fincen.gov.

SUPPLEMENTARY INFORMATION:

Title: BSA Currency Transaction Report by Financial Institutions (See 31 CFR 1010.310).

Office of Management and Budget (“OMB”) Number: 1506-0064.¹

Report Number: FinCEN 112.

Abstract: The statute generally referred to as the “Bank Secrecy Act,” (“BSA”) Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5332, authorizes the Secretary of the Treasury, inter alia, to

¹ The BCTR reporting requirements are currently covered under the following OMB Control numbers: 1506-0004 (Financial Institutions other than Casinos), and 1506-0005 (Casinos and Card Clubs).

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 counter-money laundering programs and compliance procedures.² Regulations implementing Title II of 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.

The Secretary of the Treasury was granted authority in 1970, with the enactment of 31 U.S.C. 5313, to require financial institutions to report currency transactions exceeding \$10,000. The information collected on the “report” is required to be provided pursuant to 31 U.S.C. 5313 as implemented by FinCEN regulations found at 31 CFR 1010.310. 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 relating to BSA Reports.³

Current Action: FinCEN completed a review of the BCTR in preparation for renewal under the PRA. During its review, FinCEN considered suggestions for improvements to the report received from our stakeholders and filers. A data quality review of previously filed BCTRs suggested a change in reporting schemes had occurred since the initial BCTR was placed in service in March 2011. In particular, over the period of four years, FinCEN observed an increase in the number of holding or parent companies filing for

² Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

³ Department of the Treasury bureaus such as FinCEN renew their System of Records Notices every three years unless there is cause to amend them more frequently. FinCEN’s System of Records Notice for BSA Reports System may be reviewed at http://www.fincen.gov/foia/files/FinCEN_79_FR_20969.pdf.

their subsidiary institutions. Prior to this, the BCTR was predominantly filed by the financial institution where the transaction occurred. The current BCTR was not designed to record different filing and transaction locations. Additionally, FinCEN noted an inability to record the dollar value of the transaction in Part III when multiple transactions were reported. FinCEN also was made aware that the current BCTR does not provide a means of indicating “shared branching” transactions. Under the “shared branching” transaction, the employee identification number (EIN) of the financial institution where the transaction was conducted may not be known to the filing institution, so an “unknown” check box has been added.

In response to these identified deficiencies, FinCEN is proposing the following adjustments to the BCTR. To support recording the dollar amount of the transaction at the transaction location, cash-in and cash-out fields have been added to Part III. A new Part IV, has been added to record the entity actually filing the report through the BSA E-Filing System. A check box has been added to Part III to indicate when the information in Part IV is the same for Part III. This change will reduce the burden for filing the BCTR in those cases where the filer and transaction locations are the same. In Part I, Item 2d has been changed from “Courier Service (Private)” to “Common carrier” to reflect defined terminology. FinCEN has been advised by several non-bank financial institutions that the reference to “teller(s)” in the instructions is confusing and misleading since non-bank financial institutions normally do not employ “tellers.” FinCEN appreciates this feedback and proposes to define “teller” for the purpose of completing a BCTR as follows: *Teller: an individual employed by a covered financial institution that accepts currency in the normal course of business at the covered financial institution.*

Example titles (but not limited to) are “cashier,” and “cage operator.” Finally, the completion order for the report has been revised. Part IV will be completed first, followed by Part III. This facilitates using the check box in Part III when the information is the same. Part I is then completed followed by Part II. The BSA E-Filing Batch filing specifications will be revised to reflect the above changes.

Type of Review: Initial review of the proposed changes to the BCTR.

Affected public: Businesses or other for-profit and not-for-profit financial institutions.

Frequency: As required.

Estimated Reporting Burden: Average of 25 minutes per report and 20 minutes recordkeeping per filing. (The reporting burden of the regulations at 31 CFR 1010.310 is reflected in the burden for the form.)

Estimated Recordkeeping and Reporting Burden: 45 minutes.

Estimated number of respondents: 82,255 (Includes depository institutions, broker-dealers, future commission merchants, introducing brokers in commodities, money services businesses, mutual funds, and casinos and card clubs.)

Estimated Total Annual Responses: 15,522,084.⁴

Estimated Total Annual Reporting and Recordkeeping Burden: 11,641,563 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Request for Comments:

⁴ Numbers are based on actual 2015 filings as reported through the BSA E-Filing System as of December 31, 2015.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information; and (f) the proposed definition of the word "teller."

Jamal El-Hindi,
Deputy Director,
Financial Crimes Enforcement Network.

Appendix

The added or updated data items for the BCTR are as follows:

- Part I Rename item 2d from “Courier Service (private)” to “Common carrier”
- Part II Add a checkbox to item 24 to reflect “Shared Branching”
- Part III “Financial Institution Where Transaction(s) Takes Place” add a checkbox after the title to read: If Part III information is the same as Part IV, Check this box.

Add item 40 “Dollar amount of item 25 Total cash-in transacted at this location.” \$ _____

Add item 41 “Dollar amount of item 25 Total cash-out transacted at this location.” \$ _____

- Part IV Add a new Part IV “Filing Institution Information”

Item 42 Primary Federal Regulator (Drop down box)

Item 43 Legal name of financial institution

Item 44 Alternate name, e.g., trade name, DBA

Item 45 EIN

Item 46 Address (number, street, and Apt. or suite no.)

Item 47 City

Item 48 State

Item 48 ZIP Code

Item 50 Type of financial institution (Check only one)

- a. Casino/card Club
- b. Depository institution
- c. MSB
- d. Securities/futures
- z. Other (Specify) _____

Item 51 If 50a is checked, indicate type (check only one)

- a. State Licensed casino
- b. Tribal auth. casino
- c. Card Club

z. Other (specify) _____

Item 52 Financial institution ID number (check one box to indicate type)

a. CRD Number

b. IARD number

c. NFA number

d. RSSD number

e. SEC number

Item 52f ID number _____

Item 53 Contact office

Item 54 Phone number _____

Item 54a Ext. _____

Item 55 Date filed MM/DD/YYYY

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