



(BILLING CODE: 4810-02)

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Suspicious Activity Reporting Requirements by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities.

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on the renewal of an information collection requirement for the recordkeeping and reporting of suspicious activities by brokers or dealers in securities and futures commission merchants and introducing brokers in commodities.

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

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2018-0009 and OMB control number 1506-0019.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2018-0009 and OMB control number 1506-0019.

Please submit comments by one method only. Comments will also be incorporated to FinCEN's retrospective regulatory review process, as mandated by E.O. 12866 and 13563. All comments submitted 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.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

The Bank Secrecy Act ("BSA"), Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951-1959, and 31 U.S.C. et seq., authorizes the Secretary of the Treasury, among other things, 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 counter-money laundering programs and compliance procedures.¹ Title III of the USA PATRIOT Act of 2001, Pub. L. 107-56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 et seq., which are intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the

¹ 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.

regulation addressed in this notice assist Federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation and prosecution of money laundering and other matters.

The Bank Secrecy Act Suspicious Activity Report, (“BSAR”) is used by these entities to report suspicious activity to FinCEN. This request for comments also covers 31 CFR 1023.320 and 31 CFR 1026.320, and is being made pursuant to the Paperwork Reduction Act (“PRA”) of 1995.² This renewal pertains to the Office of Management and Budget’s (“OMB”) approval of the information collection requirement per se imposed upon brokers or dealers in securities and futures commission merchants and introducing brokers in commodities.³ OMB approval of the allocated burden hours associated with these requirements (31 CFR 1023.320⁴ and 1026.320⁵), stemming from the submission and record maintenance of the BSARs themselves,⁶ is reflected in the burden for the BSAR as approved under OMB Control No. 1506-0065. This splitting in the coverage of the OMB numbers is a result of FinCEN’s streamlining of SAR reporting into one a single, unified format. Although the means of reporting was consolidated into a single reporting format covering multiple industry sectors under OMB Control No. 1506-0065, the reporting requirements themselves are still contained in separate rules covered by various OMB control numbers. Consequently, the burden listed in this

² Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

³ The Federal functional regulator for the securities industry is the U.S. Securities and Exchange Commission and, for the futures industry, it is the Commodity Futures Trading Commission.

⁴ Reports by broker or dealers in securities of suspicious transactions. Although the means of reporting was consolidated into a single reporting format covering multiple industry sectors, the reporting requirements themselves are still contained in separate rules covered by various OMB control numbers.

⁵ Reports by futures commission merchants and introducing brokers in commodities of suspicious transactions.

⁶ The BSAR was approved by OMB under control number 1506-0065. The BSAR is a single report that replaced previous individual SAR forms for depository institutions, casinos, money services businesses, securities brokers or dealers, mutual funds, futures commission merchants, introducing brokers in commodities, and insurance companies.

renewal under control number 1506-0019 is estimated at one response and one hour in order to avoid double-counting the same burdens that have already been included in the estimate under control number 1506-0065.

In accordance with the requirements of the PRA and its implementing regulations, the following information is presented concerning the information collection below.

Title: Suspicious Activity Reporting by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities. (31 CFR 1023.320, and 31 CFR 1026.320).

OMB Control Number: 1506-0019.

Abstract: This notice renews the SAR reporting and recordkeeping requirements for the above-mentioned entities.

Form Number: FinCEN Form 111 (BSAR).⁷

Type of Review: Renewal of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Frequency: As required.

Estimated Number of Respondents: 5,428.⁸

Estimated Total Annual Responses: 1.⁹

Estimated Annual Reporting and Recordkeeping Burden: 1 hour.

⁷ See footnote 2.

⁸ According to the Securities Exchange Commission's 2017 Annual Report, there are over 4,000 registered broker-dealers; FinCEN will use the number 4,200 as an estimate. According to the National Futures Association, there are 64 registered futures commission merchants and 1,164 introducing brokers. Added together, the total estimated number of respondents is 5,428.

⁹ As noted above under the "Supplementary Information" section, the actual reporting and recordkeeping burden of the regulations (31 CFR 1023.320 and 1026.320) is reflected in the burden for the BSAR as approved under 1506-0065. Under control number 1506-0019, the burden is estimated at one response and one hour in order to avoid double-counting the same burdens that have already been included in the estimate under control number 1506-0065.

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. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: 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; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

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