



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Reports Relating to Currency in Excess of \$10,000 Received in a Trade or Business, or Received as Bail by Court Clerks; Form 8300

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of a currently approved information collection found in existing Bank Secrecy Act regulations. Specifically, FinCEN invites comment on a renewal, without change, of existing information collection requirements for reports of currency in excess of \$10,000 received by a trade or business, or by court clerks as bail. These transactions are reported on Form 8300. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

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-2020-0014 and the specific Office of Management and Budget (OMB) control number 1506-0018.
- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2020-0014 and OMB control number 1506-0018.

Please submit comments by one method only. Comments will also be incorporated into FinCEN's review of existing regulations, as provided by Treasury's 2011 Plan for Retrospective Analysis of Existing Rules. 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 Regulatory Support Section at 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial 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) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *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 anti-money laundering (AML) programs and compliance procedures.¹ Regulations implementing 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.²

¹ 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.

² Treasury Order 180-01 (re-affirmed Jan. 14, 2020).

31 U.S.C. 5331 of the BSA and 26 U.S.C. 6050I of the Internal Revenue Code require that certain transactions be reported to both FinCEN and the Internal Revenue Service (IRS) in the form and manner prescribed by the Secretary of the Treasury. Specifically, reporting is required by any person engaged in a trade or business who, in the course of such trade or business, receives more than \$10,000 in coins or currency in one transaction or two or more related transactions.³ Reporting is also required by any clerk of a federal or state court who receives more than \$10,000 in currency as bail for any individual charged with a specified criminal offense.⁴ Reports filed under these authorities are made through the joint FinCEN/IRS Form 8300.⁵ Furthermore, verification requirements apply to transactions requiring the filing of Form 8300.⁶ Reports filed under 31 CFR 1010.330 and 31 CFR 1010.331 must be maintained for five years after the date of filing.⁷

II. Paperwork Reduction Act of 1995 (PRA)⁸

Title: Reports Relating to Currency in Excess of \$10,000 Received in a Trade or Business, or Received as Bail by Court Clerks; Form 8300 (31 CFR 1010.330 and 31 CFR 1010.331).

OMB Control Number: 1506-0018.

Report Number: Form 8300.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the requirements for (1) any person in a trade or business who, in the course of the trade or business, receives more than \$10,000 in coin or currency in one or more related

³ 31 CFR 1010.330. Pursuant to 31 CFR 1021.330(c), non-gaming businesses at casino hotels and resorts are separate trades or businesses in which the receipt of currency in excess of \$10,000 is reportable under 31 U.S.C. 5331 and 31 CFR 1010.330.

⁴ 31 CFR 1010.331.

⁵ Currency transactions reportable under 31 U.S.C. 5313 or 31 CFR 1010.311, 1010.313, 1020.315, 1021.311, or 1021.313 are excluded from the Form 8300 reporting requirement. There are also several exceptions to the reporting requirement included in the regulation.

⁶ 31 CFR 1010.330(e)(2); 31 CFR 1010.331(c)(2).

⁷ 31 CFR 1010.330(e)(3); 31 CFR 1010.331(c)(1) (incorporating the requirements of 26 CFR 1.6050I-2(c)(3)(i)).

⁸ Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

transactions to report it to FinCEN, and (2) any clerk of a federal or state court who receives more than \$10,000 in currency as bail for any individual charged with a specified criminal offense to make report of information with respect to receipt of that currency.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Type of Review:

- Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Respondents: 32,500 respondents.⁹

Estimated Recordkeeping and Reporting Burden:

The information required to be reported on the Form 8300 is basic information to which a filer would have access to in the course of doing business. For instance, the Form 8300 requires a trade or business or court clerk to report identifying information about the individual from whom the cash was received, as well as any person on whose behalf the transaction was conducted. The Form 8300 also requires the filer to report a description of the transaction and method of payment, as well as identifying information for the business that received the cash. As this information is readily available to a trade or business or court clerk, FinCEN estimates that reporting this information will take 20 minutes on average. Additionally, while the Form 8300 may be filed electronically, which allows the filer to save an electronic version of the form and satisfy the recordkeeping requirement, many filers choose to file a paper copy of the Form 8300. Therefore, FinCEN estimates that the recordkeeping requirement will take 10 minutes on average. FinCEN estimates total hourly burden of reporting and recordkeeping for each Form 8300 is 30 minutes.

⁹ In 2019, FinCEN received form 8300s from 32,462 unique filers based on their tax identification numbers (TIN). FinCEN is conservatively rounding this estimate to 32,500 respondents annually.

Estimated Total Annual Responses: 323,067 Form 8300s were filed in calendar year 2019.

Estimated Total Annual Recordkeeping Burden: The estimated total annual PRA burden is 161,534 hours (323,067 Form 8300s filed in calendar year 2019 multiplied by 30 minutes and converted to hours).

Estimated Total Annual Recordkeeping Cost: FinCEN estimates the following annual burden cost: 161,534 X \$30.60 per hour¹⁰ = \$4,942,940.

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.

General 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: (i) 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; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) 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 (v) estimates of

¹⁰ The U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. The most recent data from the BLS corresponds to May 2019. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at <https://www.bls.gov/oes/tables.htm>. The ratio between benefits and wages for financial activities is \$15.95 (hourly benefits)/\$32.05 (hourly wages) = 0.50. The benefit factor is 1 plus the benefit/wages ratio, or 1.50. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position. The May 2019 Bureau of Labor Statistics average hourly wage for "43-3099 Financial Clerk" is \$20.40. (\$20.40 x 1.50 = \$30.60).

capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

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