



## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Agency Information Collection Activities; Proposed Renewal; Comment Request;

#### Renewal without Change of Administrative Rulings Regulations

**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, to an information collection found in existing Bank Secrecy Act (BSA) regulations. Specifically, the regulations provide procedures for requestors to seek, and for FinCEN to issue, administrative rulings. This request for comments is made pursuant to the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION 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-2023-0009 and the Office of Management and Budget (OMB) control number 1506-0050.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2023-0009 and OMB control number 1506-0050.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA<sup>1</sup> and applicable OMB regulations and guidance. All comments

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<sup>1</sup> Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

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:** FinCEN’s Regulatory Support Section (RSS) at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto: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 Foreign 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 (October 26, 2001), and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).<sup>2</sup> The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, and notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (the “Secretary”), *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, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures.<sup>3</sup> 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.<sup>4</sup>

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<sup>2</sup> The AML Act was enacted as Division F, sections 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).

<sup>3</sup> Section 358 of the USA PATRIOT Act expanded the purpose of the BSA, by including a reference to reports and records “that have a high degree of usefulness in intelligence or counterintelligence activities to protect against international terrorism.” Section 6101 of the AML Act further expanded the purpose of the BSA to cover such matters as preventing money laundering, tracking illicit funds, assessing risk, and establishing appropriate frameworks for information sharing.

<sup>4</sup> Treasury Order 180-01 (Jan. 14, 2020).

A FinCEN administrative ruling is a written ruling interpreting the relationship between the regulations implementing the BSA at 31 CFR chapter X and each situation for which such a ruling has been requested in conformity with the regulatory requirements.<sup>5</sup> The regulations implementing the procedures for requestors to submit, and for FinCEN to issue, administrative rulings appear in Part 1010, Subpart G – Administrative Rulings. Specifically, the regulations address the following: (a) how to submit a request for an administrative ruling (31 CFR 1010.711); (b) treatment of non-conforming requests (31 CFR 1010.712); (c) treatment of oral communications (31 CFR 1010.713); (d) withdrawal of administrative ruling requests (31 CFR 1010.714); (e) issuance of administrative rulings (31 CFR 1010.715); (e) modification and rescission of administrative rulings (31 CFR 1010.716); and (f) disclosure of administrative ruling (31 CFR 1010.717). An administrative ruling has precedential value, and may be relied upon by others similarly situated, only if FinCEN makes it available to the public through publication on the FinCEN website or other appropriate forum.<sup>6</sup>

## II. Paperwork Reduction Act of 1995

Title: Administrative Rulings Regulations (Subpart G – 31 CFR 1010.710 through 31 CFR 1010.717).

OMB Control Number: 1506-0050.

Report Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the administrative rulings regulations.

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

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<sup>5</sup> See 31 CFR 1010.715.

<sup>6</sup> *Id.* FinCEN's administrative rulings are collected on the FinCEN website at the following address: <https://www.fincen.gov/resources/statutes-regulations/administrative-rulings>.

Type of Review: Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Requests Annually: 44 requests.<sup>7</sup>

Estimated Recordkeeping Burden:

FinCEN receives on average 44 administrative ruling requests per year. FinCEN continues to estimate that it takes a requestor approximately two hours to draft and submit an administrative rule request to FinCEN.<sup>8</sup> This results in an estimated total annual burden of 88 hours (44 administrative ruling requests multiplied by two hours per request).

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:

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

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<sup>7</sup> In 2020, 2021, and 2022 FinCEN received a total of 132 administrative ruling requests. 132 requests divided by 3 years equals 44 requests annually.

<sup>8</sup> When this OMB control number was last renewed in 2020, FinCEN estimated the total burden per requestor to draft and submit an administrative ruling request was two hours per requestor.

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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