



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 a proposed renewal, without change, of an information collection found in existing Bank Secrecy Act regulations. Specifically, FinCEN invites comment on a renewal 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 (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-2023-0010 and the 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-2023-0010 and OMB control number 1506-0018.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA¹ and applicable OMB regulations and guidance. 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 (RSS) 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 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).² 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.³ Regulations implementing the BSA appear at 31 CFR chapter X. The

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

² 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).

³ 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.

authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.⁴

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.⁵ 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.⁶ Reports filed under these authorities are made through the joint FinCEN/IRS Form 8300.⁷ Furthermore, verification requirements apply to transactions requiring the filing of Form 8300.⁸ Reports filed under 31 CFR 1010.330 and 31 CFR 1010.331 must be maintained for five years after the date of filing.⁹

II. Paperwork Reduction Act of 1995

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.

Form Number: Form 8300.

⁴ Treasury Order 180-01 (Jan. 14, 2020).

⁵ 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.

⁶ 31 CFR 1010.331.

⁷ 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.

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

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

Abstract: FinCEN is issuing this notice to renew the OMB control number for the Form 8300 and the regulations at 31 CFR 1010.330 and 31 CFR 1010.331.

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: 35,000 Form 8300 filers.¹⁰

Estimated Reporting and Recordkeeping Burden:

The information required to be reported on the Form 8300 is basic information to which a filer would have access 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. In addition, 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.

Estimated Total Annual Responses: 400,112 Forms 8300 were filed in calendar year 2022.

¹⁰ In 2022, FinCEN received Forms 8300 from 34,832 unique filers based on their tax identification number (TIN). FinCEN is rounding this estimate to 35,000 respondents annually.

Estimated Total Annual Reporting and Recordkeeping Burden: The estimated total annual PRA burden is 200,056 hours (400,112 Forms 8300 filed in calendar year 2022 multiplied by 30 minutes and converted to hours).

Estimated Total Annual Reporting and Recordkeeping Cost: FinCEN estimates the following annual burden cost: 200,056 hours x \$52.55 per hour¹¹ = \$10,512,942.80.

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

¹¹ The average hourly wage rate is calculated from the May 2022 U.S. Bureau of Labor Statistics average hourly wage for "13-1041 Compliance Officer" of \$37.01, plus an additional 42% for benefits to produce a fully-loaded rate of \$52.55. The ratio between benefits and wages for private industry workers is \$11.86 (hourly benefits)/\$28.37 (hourly wages) = 0.42, as of March 2023. The benefit factor is 1 plus the benefit/wages ratio, or 1.42. \$37.01 multiplied by 1.42 equals \$52.55. See U.S. Bureau of Labor Statistics, *Employer Costs for Employee Compensation: Private Industry dataset* (March 2023), available at <https://www.bls.gov/web/ecec/ecec-private-dataset.xlsx>.

Himamauli Das,
Acting Director,
Financial Crimes Enforcement Network.

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