



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal without Change of Bank Secrecy Act Regulations Requiring Reports of Certain Domestic Transactions

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 an existing information collection relating to records of certain domestic transactions. Specifically, if the Secretary of the Treasury finds that reasonable grounds exist for concluding that additional recordkeeping and/or reporting requirements are necessary to carry out the purposes of the Bank Secrecy Act, or to prevent evasions thereof, the Secretary may issue an order that imposes certain additional recordkeeping and reporting requirements on one or more domestic financial institutions or nonfinancial trades or businesses in a geographic area. These orders are commonly referred to as geographic targeting orders (GTOs). 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-2024-0007 and Office of Management and Budget (OMB) control number 1506-0056.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2024-0007 and OMB control number 1506-0056.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA and applicable OMB regulations and guidance. Comments will generally become a matter of public record. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. Given the nature of GTOs and their law enforcement purposes, any information that concerns confidential matters involving specific GTOs should be marked “confidential” and include the specific name of the GTO.

FOR FURTHER INFORMATION CONTACT: FinCEN’s 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 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).¹ The BSA is codified at 12 U.S.C. 1829b, 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, and includes notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a

¹ 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).

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.² The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.³

Congress amended the BSA in 1988 to give the Secretary the authority to issue GTOs requiring any domestic financial institution or group of domestic financial institutions in a geographic area to collect certain information regarding specified transactions, and to report that information in the manner and to the extent specified in the GTO.⁴ Congress subsequently amended the GTO authority to: (i) permit the issuance of confidential GTOs; (ii) lengthen the maximum effective period (unless renewed) of GTOs from 60 to 180 days; (iii) cover transactions involving transfers of funds; and (iv) clarify that GTOs can be issued upon reasonable grounds for concluding that additional requirements are necessary to carry out the purposes of the BSA or to prevent evasions of the BSA.⁵

Pursuant to 31 U.S.C. 5326(a), as amended, if the Secretary finds that reasonable grounds exist for concluding that additional recordkeeping and reporting are necessary to carry out the purpose of the BSA or to prevent evasions thereof, the Secretary may issue a GTO requiring any domestic financial institution or nonfinancial trade or business or group of domestic financial institutions or domestic nonfinancial trades or businesses in a

² 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.

³ Treasury Order 180-01 (Jan. 14, 2020).

⁴ 31 U.S.C. 5326 was amended by Pub. L. 100-690, title VI, sec. 6185(c).

⁵ See Pub. L. 102-550, title XV, sec. 1514; Pub. L. 107-56, sec. 353(d); Pub. L. 115-44, sec. 275.

geographic area to obtain information about certain transactions, as described in the GTO.⁶

Generally, 31 U.S.C. 5326(a) requires entities that receive such a GTO to report, in the manner and to the extent specified in the GTO, information concerning any transaction in which such entity is involved for the payment, receipt, or transfer of funds (as described in the GTO). A GTO typically will include the following terms: (i) the dollar amount of transactions subject to the reporting requirement; (ii) the type of transactions subject to or exempt from the reporting requirement; (iii) the appropriate form for reporting and the method for form submission; (iv) the start and end dates by which the transactions specified in the GTO are to be reported; (v) a point of contact at for questions; (vi) the amount of time the reports and records of reports generated are required to be retained; and (vii) any other information deemed necessary to carry out the purpose of the GTO. Pursuant to 31 U.S.C. 5326(d), GTOs cannot prescribe a reporting period longer than 180 days, unless the GTO is renewed pursuant to 31 U.S.C. 5326(a).

Pursuant to 31 U.S.C. 5326(a)(2), as implemented by 31 CFR 1010.410(d), each entity that receives a GTO must retain the original or a copy of the information required to be reported in the GTO, for the period specified in the GTO, not to exceed five years.

II. Paperwork Reduction Act of 1995⁷

Title: Reports and Records of Certain Domestic Transactions (31 U.S.C. 5326; 31 CFR 1010.370 and 1010.410(d)).

OMB Control Number: 1506-0056.

Form Number: FinCEN will specify the form and method for reporting in the GTO.

⁶ The authority set forth in 31 U.S.C. 5326 to impose reporting and recordkeeping requirements is self-implementing. Although 31 U.S.C. 5326 does not mention the need for a prescribing regulation, a rule corresponding to section 5326 is set forth at 31 CFR 1010.370. Among other things, the rule defines a geographic area.

⁷ Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

Abstract: FinCEN is issuing this notice to renew the OMB control number for regulations permitting the issuance of orders, commonly referred to as GTOs, requiring reports and records of certain domestic transactions.

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: 709 domestic financial institutions and/or domestic nonfinancial trades or businesses.⁸

Estimated Total Annual Responses: 21,513 responses.⁹

Estimated Reporting and Recordkeeping Burden Per Response:

Generally, the information required to be recorded and reported pursuant to a GTO is basic information that a domestic financial institution or domestic nonfinancial trade or business would have access to in the normal course of doing business, such as payment, receipt, or transfer of funds information. The information required to be reported pursuant to a GTO, generally, includes the following: (i) the dollar amount of the transaction; (ii) the type of transaction; (iii) information identifying a party to the transaction, such as name, address, date of birth, and tax identification number; (iv) the role of a party in the transaction (i.e., originator or beneficiary); and (v) the name, address, and contact information for the domestic financial institution or domestic nonfinancial trade or business.

As noted above, FinCEN will specify the form and method for reporting.

Responses to GTOs generally are submitted to FinCEN electronically, such as through the BSA E-Filing System. FinCEN has on occasion directed filers to respond to GTOs

⁸ The number of respondents, 709, is the average for 2021 (619), 2022 (755), and 2023 (754). Note that FinCEN may issue a GTO to any business in the United States. Generally, a GTO is issued to a specific sector or business type.

⁹ The number of responses, 21,513, is the average number of responses for 2021 (18,743), 2022 (25,389), and 2023 (20,411).

by using existing BSA electronic forms (such as the forms used to file currency transaction reports, suspicious activity reports,¹⁰ and Form 8300s), and completing them in the manner specified in the relevant GTO.

Because the information to be reported is readily available to a domestic financial institution or nonfinancial trade or business, in 2020 FinCEN estimated that reporting this information would take 20 minutes on average.¹¹ Since then, FinCEN has received additional feedback from the American Land Title Association, whose members have submitted a number of GTO reports, noting that it takes the Association's members approximately 45 minutes to complete a GTO report. For that reason, FinCEN is increasing the estimated time to report GTO information to 45 minutes.

GTO information is filed electronically, which allows the filer to save an electronic version of the report and satisfy the recordkeeping requirement. Therefore, FinCEN estimates that the recordkeeping requirement will take five minutes on average. In total, FinCEN estimates the hourly burden of reporting and recordkeeping for each reportable transaction under a GTO to be 50 minutes (45 minutes for reporting and five minutes for recordkeeping).

Estimated Total Annual Reporting and Recordkeeping Burden: 17,928 hours. The average number of reportable transactions under GTOs is 21,513 responses. 21,513 responses multiplied by 50 minutes per response and converted to hours equals 17,928 hours.¹²

¹⁰ When a modified SAR is used for reporting, it is considered a GTO report and not a SAR that is filed to comply with the regulations implementing 31 U.S.C. 5318(g).

¹¹ See, FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Bank Secrecy Act Regulations Requiring Reports of Certain Domestic Transactions*, 85 FR 84104 (Dec. 23, 2020).

¹² Although the burden is stated as an annual burden in accordance with the PRA, the estimated annual burden is not intended to indicate that there is a GTO in effect throughout a year or in each year.

Estimated Total Annual Reporting and Recordkeeping Cost: \$576,923.04. (17,928 hours multiplied by \$32.18 per hour¹³).

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. Comments are invited on: (i) whether the recordkeeping 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.

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Financial Crimes Enforcement Network.

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¹³ The average hourly wage rate is calculated from the May 2022 U.S. Bureau of Labor Statistics (BLS) median hourly wage for "43-3099 Financial Clerk." See BLS, *Occupational Employment and Wages Statistics* (May 2022), available at <https://www.bls.gov/oes/tables.htm>. The ratio between benefits and wages for private industry workers is \$12.19 (hourly benefits)/\$29.34 (hourly wages) = 0.42, as of September 2023. The benefit factor is 1 plus the benefit/wages ratio, or 1.42. See BLS, *Employee Costs for Employee Compensation* (September 2023), available at <https://www.bls.gov/ecec/home.htm#:~:text=Employer%20costs%20for%20private%20industry,percent%20of%20total%20compensation%20costs>. The May 2022 BLS median hourly wage for "43-3099 Financial Clerk" is \$22.66. (\$22.66 x 1.42 = \$32.18). The Financial Clerk average hourly wage is being used here because there is a great deal of variation across industries and geographies in who is responsible for responding to a GTO.