

DEPARTMENT OF THE TREASURY**Financial Crimes Enforcement Network; Agency Information Collection; Comment Request; Renewal Without Change of the Suspicious Activity Report by Money Services Businesses**

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 comment on the proposed renewal without change of the form, Suspicious Activity Report by Money Services Businesses, FinCEN Form 109. The form will be used by money transmitters, issuers, sellers, and redeemers of money orders and traveler’s checks, and currency dealers and exchangers to report suspicious activity to the Department of the Treasury. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before August 19, 2008.

ADDRESSES: Written comments should be submitted to: Office of Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: PRA Comments—Suspicious Activity Report by Money Services Business, FinCEN Form 109. Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.gov, again with a caption, in the body of the text, “Attention: PRA Comments—SAR—MSB Form”.

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory helpline at (800) 949–2732 and select Option 1.

SUPPLEMENTARY INFORMATION:

Title: Suspicious Activity Report by Money Services Businesses and 31 CFR 103.20.

OMB Number: 1506–0015.

Form Number: FinCEN Form 109.

Abstract: The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Public Law 91–508, as

amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, 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 counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g), to require financial institutions to report suspicious transactions. On March 14, 2000, FinCEN issued a final rule requiring certain categories of money services businesses, including money transmitters and issuers, sellers, and redeemers of money orders and traveler’s checks, to report suspicious transactions (65 FR 13683). The final rule can be found at 31 CFR 103.20. FinCEN amended the suspicious transaction reporting rule for money services businesses by notice in the **Federal Register** dated February 10, 2003, (68 FR 6613), to also apply to currency dealers and exchangers. Currently, money services businesses report suspicious activity by filing FinCEN Form 109.

The information collected on Form 109 is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.20. This information will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel for use in official performance of their duties, for regulatory purposes, and in investigations and proceedings involving terrorist financing, domestic and international money laundering, tax violations, fraud, and other financial crimes.

Suspicious activity reports required to be filed by money services businesses under 31 CFR 103.20, and any suspicious activity reports filed by money services businesses on a voluntary basis will be subject to the

¹ Language expanding the scope of the Bank Secrecy Act 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 (USA PATRIOT ACT) Act of 2001 (the “USA Patriot Act”), Pub. L. 107–56.

protection from liability contained in 31 U.S.C. 5318(g)(3) and the provision contained in 31 U.S.C. 5318(g)(2) which prohibits notification of any person involved in the transaction that a suspicious activity report has been filed.

Current Actions: There are no proposed changes to the current SAR—MSB, FinCEN Form 109. The form is available on the FinCEN Web site at: http://www.fincen.gov/forms/files/fin109_sarmsb.pdf.

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

Affected public: Business or other for-profit institutions.

Frequency: As required.

Estimated Burden: Reporting average of 45 minutes per response and 15 minutes recordkeeping for a total of 1 hour.

Estimated Number of Respondents: 42,000.

Estimated Total Annual Responses: 585,000.

Estimated Total Annual Burden Hours: 585,000 hours.

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 Office of Management and Budget control number. Records required to be retained under the Bank Secrecy Act 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 Office of Management and Budget 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.

Dated: June 13, 2008.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

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