

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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 the services necessary to provide the required information.

Dated: February 23, 2016.

**Mary Hoyle Gottlieb,**

*Regulatory Specialist, Legislative and Regulatory Activities Division.*

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## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### **Proposed Collection; Comment Request; Renewal Without Change of the Requirement for Information Sharing Between Government Agencies and Financial Institutions**

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, FinCEN is soliciting comments concerning the renewal without change of the “Information sharing between government agencies and financial institutions” under 31 CFR 1010.520, generally referred to as the 314(a) program.

**DATES:** Written comments are welcome and must be received on or before April 29, 2016.

**ADDRESSES:** Written comments SHOULD BE SUBMITTED to: Office of Regulatory Policy, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183. *Attention:* PRA Comments—314(a) program.

• Comments also may be submitted by electronic mail to the following Internet address: [regcomments@fincen.gov](mailto:regcomments@fincen.gov) with the caption in the body

of the text, “Attention: PRA Comments—314(a) program.”

• Please submit by one method only. All comments submitted by either method 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.

*Inspection of comments.* Comments will be posted on the FinCEN public Web site. Persons wishing to review the comments submitted may access the posted comments by going to [https://www.fincen.gov/statutes\\_regs/frn/https://www.fincen.gov/statutes\\_regs/frn/](https://www.fincen.gov/statutes_regs/frn/https://www.fincen.gov/statutes_regs/frn/) and select the appropriate listing.

#### **FOR FURTHER INFORMATION CONTACT:**

FinCEN Resource Center at 1-800-767-2825 or 1-703-905-3591 (not a toll free number) and select option 3 for regulatory questions. Email inquiries can be sent to [FRC@fincen.gov](mailto:FRC@fincen.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

###### *A. Statutory Provisions*

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA PATRIOT Act” or “Act”), Public Law 107-56. Title III of the Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b and 1951-1959 and 31 U.S.C. 5311-5314 and 5316-5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA has been delegated to the Director of FinCEN.

Of the Act’s many goals, the facilitation of information sharing among governmental entities and financial institutions for the purpose of combating terrorism and money laundering, is of paramount importance. As with many other provisions of the Act, Congress has charged the U.S. Department of the Treasury with developing regulations to implement these information-sharing provisions.

Subsection 314(a) of the Act states in part that:

[t]he Secretary shall . . . adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial

institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.<sup>1</sup>

#### *B. Overview of the Current Regulatory Provisions Regarding the 314(a) Program*

On September 26, 2002, FinCEN published a final rule implementing the authority contained in section 314(a) of the Act.<sup>2</sup> That rule (“the 314(a) rule”) required U.S. financial institutions upon FinCEN’s request, to search their records to determine whether they have maintained an account or conducted a transaction with a person that a Federal law enforcement agency has certified is engaging in or suspected, based on credible evidence, of engaging in terrorist activity or money laundering.<sup>3</sup> The rule was expanded on February 10, 2010, to enable certain entities other than Federal law enforcement agencies to benefit from 314(a) requests to industry. As amended, the rule now also enables certain foreign law enforcement agencies, state and local law enforcement agencies, as well as FinCEN, on its own behalf and on behalf of appropriate components of the Department of the Treasury, to initiate 314(a) queries.<sup>4</sup> Before processing a request, FinCEN requires the requesting agency to certify that, in the case of money laundering, the matter is significant, and that the requesting agency has been unable to locate the information sought through traditional methods of investigation and analysis before attempting to use the 314(a) program.<sup>5</sup>

Since its inception, the 314(a) program has yielded significant investigative benefits for law enforcement in terrorist financing and significant money laundering cases. Feedback from the requesters and illustrations from sample case studies consistently demonstrate that the program is extremely valuable to furthering terrorist financing and significant money laundering investigations. In view of the proven success of the 314(a) program, FinCEN seeks to renew without change the 314(a) program.

<sup>1</sup> See 31 U.S.C. 5311-5314.

<sup>2</sup> Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity, 67 FR 60,579 (Sept. 26, 2002).

<sup>3</sup> 31 CFR 1010.520.

<sup>4</sup> Expansion of Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity, 75 FR 6560 (Feb. 10, 2010).

<sup>5</sup> *FinCEN’s 314(a) Fact Sheet* ([https://www.fincen.gov/statutes\\_regs/patriot/pdf/314afactsheet.pdf](https://www.fincen.gov/statutes_regs/patriot/pdf/314afactsheet.pdf))

**II. Paperwork Reduction Act ("PRA"):<sup>6</sup>**

*Title:* Information sharing between government agencies and financial institutions.

*Office of Management and Budget ("OMB") Number:* 1506-0049.

*Form Number:* Not Applicable.

*Abstract:* 31 CFR Chapter X, Information sharing between government agencies and financial institutions (31 CFR 1010.520) details the requirements of section 314(a) of the USA PATRIOT Act. Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to its Chapter X part for any additional special information sharing procedures.

*Type of Review:* Extension without change of a currently approved collection.

*Affected Public:* Businesses or other for-profit and non-profit organizations, and the Federal, state, and local government.

*Frequency:* As required.

*Estimated Number of Respondents:* 20,134.<sup>7</sup>

*Estimated Time per Respondent:* 54 hours annually.<sup>8</sup>

*Estimated Total Annual Burden Hours:* 1,087,236.<sup>9</sup>

The following paragraph applies to all of the collections of information covered by this notice:

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. In accordance with 31 CFR 1010.330(e)(3), a person required to make a report under this section must keep a copy of each report filed for five years from the date of filing.

*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 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.

**Jamal El-Hindi,**

*Deputy Director, Financial Crimes Enforcement Network.*

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**DEPARTMENT OF THE TREASURY****Submission for OMB Review; Comment Request**

February 24, 2016.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before March 30, 2016 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at [OIRA\\_Submission@OMB.EOP.gov](mailto:OIRA_Submission@OMB.EOP.gov) and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at [PRA@treasury.gov](mailto:PRA@treasury.gov).

**FOR FURTHER INFORMATION CONTACT:**

Copies of the submissions may be obtained by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622-1295, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:****Internal Revenue Service (IRS)**

*OMB Number:* 1545-0192.

*Type of Review:* Extension of a currently approved collection.

*Title:* Tax on Accumulation Distribution of Trusts.

*Abstract:* Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

*Estimated Total Annual Burden Hours:* 42,900.

*OMB Number:* 1545-0228.

*Type of Review:* Extension of a currently approved collection.

*Title:* Form 6252—Installment Sale Income.

*Abstract:* Information is needed to figure and report an installment sale for a casual or incidental sale of personal property, and a sale of real property by someone not in the business of selling real estate. Data is used to determine whether the installment sale has been properly reported and the correct amount of profit is included in income on the taxpayer's return.

*Estimated Total Annual Burden Hours:* 1,597,008.

*OMB Number:* 1545-0865.

*Type of Review:* Extension of a currently approved collection.

*Title:* Form 8918—Material Advisor Disclosure Statement.

*Abstract:* The American Jobs Creation Act of 2004, Public Law 108-357, 118 Stat. 1418, (AJCA) was enacted on October 22, 2004. Section 815 of the AJCA amended section 6111 to require each material advisor with respect to any reportable transaction to make a return (in such form as the Secretary may prescribe) setting forth: (1) Information identifying and describing the transaction; (2) information describing any potential tax benefits expected to result from the transaction; and (3) such other information as the Secretary may prescribe.

*Estimated Total Annual Burden Hours:* 5,096.

*OMB Number:* 1545-0940.

*Type of Review:* Extension of a currently approved collection.

*Title:* TD 8086—Election for \$10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements (LR-185-84 Final).

*Abstract:* The regulation liberalizes the procedure by which the state or local government issuer of an exempt small issue of tax-exempt bonds elects the \$10 million limitation upon the size of such issue and deletes the

<sup>6</sup> The PRA does not apply to the requirement in section 1010.520(b)(2) concerning reports by financial institutions in response to a request from FinCEN on behalf of a Federal law enforcement agency. See 5 CFR 1320.4(a)(2). Therefore, this renewal applies only to the use of the 314(a) program with respect to queries initiated by non-federal law enforcement entities.

<sup>7</sup> On an annual basis, there are approximately 20,134 covered financial institutions, consisting of certain commercial banks, savings associations, and credit unions, securities broker-dealers, future commission merchants, certain trust companies, life insurance companies, mutual funds and money services businesses.

<sup>8</sup> Estimated requests per annum subject to the PRA include, 10 from FinCEN, 50 from state and local law enforcement, and 30 from European Union countries approved by treaty, for a total of 90 requests per annum, with each request containing an average of 9 subjects (including aliases). Each subject requires 4 minutes to research, resulting in  $(90 \times 9 \times 4 \div 60) = 54$  hours per year.

<sup>9</sup> Burden computation is as follows: 54 hours per year per respondent times 20,134 respondents  $(54 \times 20,134) = 1,087,236$  hours.