



March 14, 2022

*Via Electronic Mail*

Policy Division  
Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

Re: Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Reports of Transactions with Foreign Financial Agencies (Docket No. FINCEN—2022—0001 and OMB Control No. 1506—0055)

To Whom It May Concern:

The Bank Policy Institute<sup>1</sup> appreciates the opportunity to respond to the Financial Crimes Enforcement Network's request for comment on the agency's renewal without change of reports of transactions with foreign financial agencies.<sup>2</sup> In particular, we commend the agency's focus on more accurately estimating the burden associated with these unique reporting requirements. As the agency notes, very few financial institutions receive these requests – with FinCEN sending four requests to an average of nine institutions from 2019-2021<sup>3</sup> – which makes providing a comprehensive response to its solicitation complex. However, the below information on the hours invested and resources devoted to responding to these reporting expectations reflects member experiences to date. We would be happy to discuss these estimates with FinCEN further as it continues to build out its burden assessment

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<sup>1</sup> The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks, and the major foreign banks doing business in the United States. Collectively, they employ almost two million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

<sup>2</sup> 87 Fed. Reg. 1479.

<sup>3</sup> 87 Fed. Reg. 1481.

methodology and encourage individual outreach to reporting institutions should the agency wish to understand burden elements in greater detail.

While we understand that these reports may have value to law enforcement, their breadth makes them difficult for reporting institutions to provide thoughtful insights on. The provision of additional information on the rationale for a request could assist institutions in contributing more substantially to an investigation as well as institution's internal risk mitigation efforts. We would also recommend that FinCEN consider ways to enhance reporting capabilities as banks indicate that they undertake substantial effort to provide these reports in a manner that FinCEN can accept.<sup>4</sup> Exploring reporting mechanisms that accept larger files would likely be beneficial as such technology may also assist FinCEN's AML/CFT review and modernization efforts under the *Anti-Money Laundering Act of 2020* (AML Act).<sup>5</sup>

As an initial matter, we believe that FinCEN's estimate of 5 hours and 5 minutes significantly underestimates the amount of time it takes for institutions to respond to a foreign financial agency request, particularly for a large bank. While some institutions indicate that certain requests can take 5 to 8 hours, a majority take significantly more time. Factors that impact the burden estimate include (i) the nature of the request; (ii) the number of individuals, and their function, covered by a request; (iii) the review period; (iv) the jurisdiction of the FFA; and (v) the number of backward- and forward-looking reports requested. Of particular note, the number of individuals and potential matches, as well as the search period, are key elements that impact the resources dedicated to fulfilling a foreign financial agency request. Some institutions have indicated that significant requests can take between 320-400 hours to respond to, involving multiple people (e.g., 2-3) working over a period of weeks to complete the required report(s). Other foreign financial agency requests have required 80-120 hours respectively, but the variation in time is determined by the request's scope and complexity (e.g., does a request require accessing archived or legacy systems) as well as the jurisdiction of the FFA, which FinCEN may want to consider including as part of its methodology. Therefore, we would recommend that FinCEN consider measuring burden as hours in proportion to the size and complexity of the FFA request (i.e., that it might take 5 hours per x amount of records).

Furthermore, at least one institution has indicated that one request requires five different stages of processing and review – with 5 to 11 people involved, in some manner, in completing the

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<sup>4</sup> As FinCEN has a 100-megabyte file size limit for FFA reports, institutions must often devote significant time and effort to breaking down responses to large requests into multiple files.

<sup>5</sup> William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283 ("NDAA 2021"). For example, Section 6202(D)(i)(I) of the AML Act states that FinCEN, in consultation with federal and state regulators, is to "establish streamlined, including automated, processes to, as appropriate, permit the filing of noncomplex categories of [suspicious activity] reports..."

report<sup>6</sup>. This is due, in part, to the need to review identified wires<sup>7</sup> in order to match them to the request or make false positive determinations, which can be very time consuming when a request covers multiple actors.

As the above illustrates, institutions deploy significant resources to responding to foreign financial agency reporting requests – generally substantially above the initial assessment provided in FinCEN’s comment request. We encourage FinCEN to continue to pursue its investigatory efforts, whether bilaterally with reporting institutions or multilaterally, and would be happy to engage with the agency further on this issue, both in helping it to enhance its assessment methodology around the process institutions leverage to respond to such reports and discussing ways to streamline and enhance reporting.

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BPI appreciates FinCEN’s consideration of its feedback on this burden assessment. If you have any questions, please contact the undersigned by phone at 202-589-1935 or by email at [Angelena.Bradfield@bpi.com](mailto:Angelena.Bradfield@bpi.com).

Respectfully submitted,



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Bank Policy Institute

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<sup>6</sup> Data specialists that pull data and validate supplied information are particularly significant to the provision of these reports.

<sup>7</sup> We note that at least one institution indicated that they have had to review 10 million wires as part of a request.