



July 1, 2024

*Via Electronic Mail*

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

Re: Request for Comments Regarding Reports by Financial Institutions of Suspicious Transactions and FinCEN Form 111-Suspicious Activity Report (OMB control numbers 1506-0001, 1506-0006, 1506-0015, 1506-0019, 1506-0029, 1506-0061, and 1506-0065).

To Whom It May Concern:

The Bank Policy Institute, the Financial Technology Association, the Independent Community Bankers of America, the American Gaming Association, and the Securities Industry and Financial Markets Association (collectively, the Associations)<sup>1</sup> welcome the opportunity to respond to FinCEN's notice under the Paperwork Reduction Act for comment on its proposal to renew without change the suspicious activity report (FinCEN Form 111) form used by financial institutions to report suspicious transactions to FinCEN.<sup>2</sup> Collectively, we represent a broad universe of SAR filers of various sizes and business models.

Based on input from our respective members, and our experience, we believe that FinCEN's burden estimate of 1.98 hours per SAR substantially underestimates the amount of time required to thoroughly undergo the reviews and processes required under applicable requirements to file a SAR. An institution's process is not just the mechanical process of generating, submitting, and storing the SAR. This process includes the time dedicated to investigating the underlying reason for filing a SAR, obtaining and reviewing supporting documentation, conducting a second review, obtaining necessary approvals,<sup>3</sup> documenting the

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<sup>1</sup> See Appendix A for descriptions of the Associations.

<sup>2</sup> 89 Fed. Reg. 47239 (May 31, 2024).

<sup>3</sup> This can require multiple levels of approval depending on the type of SAR filed.

investigation and decision process, and overseeing the process of filing a SAR. These steps are integral to the filing of a SAR and cannot be completed if any step in the process is excluded.<sup>4</sup>

The burden associated with SAR filing requirements is extensive and any official estimate should accurately reflect this burden with as much precision as possible.<sup>5</sup> This includes taking into account each of the steps that financial institutions must undertake to comply with SAR requirements.

We are appreciative of FinCEN's commitment "to conduct, in the future, additional assessments of the PRA burden associated with BSA requirements, including SAR requirements."<sup>6</sup> But we also express concern that prior feedback has not been taken into consideration and there has not been any reassessment of the burden estimate since 2020 and no firm timelines of which we are aware to carry out the contemplated reassessment. While only one of many FinCEN priorities, we believe that an accurate burden estimate should be undertaken expeditiously, as a more accurate estimate will facilitate a more efficient use of the limited resources of both the government and SAR filers, and help financial institutions allocate the appropriate resources to adequately fulfil the regulatory requirement.

The Associations would welcome the opportunity to elaborate upon the viewpoint set forth in this letter and to discuss how we could assist FinCEN staff in its plans to conduct additional research necessary to update its burden estimates.

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<sup>4</sup> While FinCEN's 2020 methodology represented an improvement over the narrower burden estimate approach employed prior to that time, in its May 2020 notice to renew the OMB control numbers assigned to the SAR reporting form, FinCEN noted that it lacked sufficient information to take the following into account in its cost and burden calculation: (i) management of a transaction monitoring system, (ii) reviewing alerts, and (iii) transforming alerts into cases for review. The exclusion of these three stages of producing SAR filings – and even just the exclusion of only stages (ii) and (iii) (i.e., reviewing alerts and transforming alerts into cases for review) – means that FinCEN's estimate excludes steps that financial institutions must undertake to comply with SAR requirements. BPI has previously commented on the shortcomings of FinCEN's burden estimate methodology in its July 2020 and April 2024 comment letters.

<sup>5</sup> As BPI noted in its letter, dated April 12, 2024 (the "April Letter"), in response to 89 Fed. Reg. 9913 (February 12, 2024) BPI conducted a survey of 15 banks to inform FinCEN's burden estimate. In stark contrast to FinCEN's burden estimate of 1.98 hours per SAR, BPI's estimate was 21.41 hours per SAR. Notwithstanding this finding, FinCEN did not change its proposed burden estimate of 1.98 hours. The supporting statement accompanying the May 2024 notice states that while FinCEN acknowledges BPI's survey findings and comments made in the April Letter, the data provided "is unlikely to be generalizable for the purpose of calculating FinCEN's estimate of the PRA burden across all banks or all covered financial institutions."

<sup>6</sup> FinCEN, Supporting Statement Office of Management and Budget (OMB) Control Numbers 1506-0001, 1506-0006, 1506-0015, 1506-0019, 1506-0029, 1506-0061, and 1506-0065 (May 30, 2024).

If you have any questions about the matters discussed in this letter, please contact the undersigned at [gregg.rozansky@bpi.com](mailto:gregg.rozansky@bpi.com), [angelena@ftassociation.org](mailto:angelena@ftassociation.org), [rhonda.thomas-whitley@icba.org](mailto:rhonda.thomas-whitley@icba.org), [ccylke@americangaming.org](mailto:ccylke@americangaming.org), or [bcanepa@sifma.org](mailto:bcanepa@sifma.org).

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Respectfully submitted,

/s/

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## Appendix A

### The Bank Policy Institute

The Bank Policy Institute is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

### The Financial Technology Association

The Financial Technology Association (FTA) is a trade association representing industry leaders shaping the future of finance. We champion the power of technology-centered financial services and advocate for the modernization of financial regulation to support inclusion and responsible innovation.

### The Independent Community Bankers of America

The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation.

As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at [icba.org](http://icba.org).

### The American Gaming Association

As the national trade group representing the U.S. casino industry, the [American Gaming Association](http://www.american-gaming.com) (AGA) fosters a policy and business environment where legal, regulated gaming thrives. The AGA's diverse membership of commercial and tribal casino operators, sports betting and iGaming companies, gaming suppliers, and more lead the \$329 billion industry and support 1.8 million jobs across the country.

### The Securities Industry and Financial Markets Association

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.