



## **Regulatory Comment: Summary and Feedback Request**

### **FinCEN: RFCs on Collection of Information re: CTRs, SARs, and Beneficial Ownership Requirements**

#### **THE ISSUE:**

As required by the Paperwork Reduction Act (PRA), through three separate requests for comment (RFC), FinCEN is soliciting input on existing information collections associated with:

- The Currency Transaction Report (CTR) (FinCEN Form 112);
- The Suspicious Activity Report (SAR) (FinCEN Form 111); and
- The Beneficial Ownership Requirements for Legal Entity Customers.

The RFCs include the current estimated burden to comply with each of these reporting requirements.

#### **IMPACT TO CREDIT UNIONS:**

As financial institutions that must comply with FinCEN's Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) rules, including those under the Bank Secrecy Act (BSA), credit unions are required to complete CTRs, SARs, and comply with beneficial ownership requirements for legal entity customers. As such, there is an obvious reporting burden placed on credit unions to comply with these reporting requirements, which are common in the normal course of a credit union's operations.

#### **KEY POINTS:**

- **Currency Transaction Reports:** According to FinCEN, it takes a financial institution an average of eight minutes to complete a CTR. The current estimated CTR filing burden is

based primarily on the time to complete FinCEN Form 112; this does not include ancillary factors related to completing the CTR. FinCEN previously discounted calls for an increase to the CTR burden estimate, citing a lack of data showing the burden estimate is low.

- Suspicious Activity Reports: According to FinCEN, it takes a financial institution an average of approximately two hours to complete a SAR.
- Beneficial Ownership Requirements for Legal Entity Customers: According to FinCEN, it takes a financial institution an average of 100 minutes total to comply with its beneficial ownership requirements for legal entity customers.

### **ACTION NEEDED: Deadlines and contacts**

Please use the comment link below to respond to America's Credit Unions' survey regarding *Currency Transaction Reports (CTR)*, *Suspicious Activity Reports (SAR)*, and *Beneficial Ownership Requirements for Legal Entity Customers*. This will help shape the discussion and better address your needs in our comment letters.

- Comments due to America's Credit Unions: **March 22, 2024** –[Submit here](#)
- CTR comments due to FinCEN by: **April 5, 2024**  
SAR comments due to FinCEN by: **April 12, 2024**  
Beneficial Ownership comments due to FinCEN by: **April 26, 2024**
- Questions? Contact [Luke Martone](#), Senior Director of Advocacy & Counsel
- Agency contact: [FinCEN Resource Center](#)

## **QUESTIONS TO CONSIDER:**

### **Currency Transaction Reports**

1. As required under the PRA, FinCEN must solicit input regarding its collection of information associated with the CTR. The current estimated burden to complete the CTR is eight minutes (on average). Do you agree with this estimate? If not, please be as detailed as possible regarding the time required to complete the CTR, including ancillary activities, such as assessing whether filing a CTR is necessary.
2. While we believe the estimate of eight minutes per CTR is low, the bigger issue we've heard from credit unions is the sheer volume of CTRs that must be filed on a regular basis. Please share information on the number of CTRs your credit union files annually, including year-over-year changes.
3. While outside the scope of this RFC, we continually push for an increase to the CTR filing threshold, which has been at \$10,000 since established in 1972. Based on the dollar amount of covered transactions, if the threshold were increased to \$30,000, what would that mean in terms of reduction in the quantity of CTRs your credit union is required to file?

### **Suspicious Activity Reports**

1. As required under the PRA, FinCEN must solicit input regarding its collection of information associated with the SAR. The current estimated burden to complete the SAR is approximately two hours (on average). Do you agree with this estimate? If not, please be as detailed as possible regarding the time required to complete the SAR, including ancillary activities necessary to complete the form.
2. Although outside the scope of this RFC, it is helpful to understand how an increase in the SAR filing threshold would benefit credit unions. As such, please provide details on the impact an increase from \$5,000 to \$10,000 would have in terms of SAR filings. Additionally, information on the number of SARs filed annually would be very helpful.

## **Beneficial Ownership Requirements for Legal Entity Customers**

1. As required under the PRA, FinCEN must solicit input regarding its information collection associated with the beneficial ownership requirements for legal entity customers. The current estimated burden associated with collecting the information used to identify and verify the identity of each beneficial owner of legal entity customers is: 20 minutes to update and maintain beneficial ownership identification procedures; and 80 minutes associated with customer identification, verification, and review and recordkeeping of the beneficial ownership information. Do you agree with this estimate? If not, please be as detailed as possible regarding the time required to comply with these requirements.
2. Unlike CTR and SAR filings, compliance with the beneficial ownership requirements for legal entity customers is much less frequent, generally limited to business account openings. However, it is important for us to know the frequency in which credit unions must comply with these requirements in order to fully understand their cost and impact on credit union operations.

### **ANALYSIS:**

#### **Currency Transaction Reports**

Reporting and recordkeeping requirements associated with FinCEN's AML/CFT rules are a significant (and increasing) strain on credit union compliance resources. As one of the primary forms credit unions must submit to FinCEN on a regular basis, the CTR is frequently cited as a top compliance requirement that needs to be addressed.

The requirement for financial institutions to report currency transactions is authorized under 31 U.S.C. 5313. Specifically, FinCEN's rules require financial institutions to report each deposit,

withdrawal, exchange of currency or other payment or transfer involving more than \$10,000. Such transactions require the filing of a CTR (FinCEN Form 112).<sup>1</sup>

FinCEN has submitted a request to the Office of Management and Budget (OMB), as required under the PRA, to continue collecting information through the CTR from credit unions and other financial institutions that must comply with the AML/CFT reporting requirements. As part of this request, FinCEN estimates the average burden to complete a CTR is eight minutes.

Based on recent outreach, it is America's Credit Unions' understanding that FinCEN may be underestimating the time required to complete a CTR. FinCEN's estimate is primarily limited to the actual time to fill out the CTR. However, it does not necessarily include ancillary factors, such as the time required to determine whether a CTR is necessary, which includes a thorough review of the specific facts for each potentially covered transaction.

It is critical for America's Credit Unions to accurately understand the time required to comply with the CTR requirement in order for us to effectively advocate for improvements to FinCEN's reporting and recordkeeping requirements. In 2020, FinCEN solicited input regarding the CTR as part of its PRA requirements. In response to industry comments that the eight-minute estimate was inaccurate, FinCEN rejected calls to increase the burden estimate, citing a lack of data showing the actual reporting burden to be greater.<sup>2</sup> As such, we urge you to provide specific information with America's Credit Unions regarding the actual burden associated with the CTR, stating any aspects of the process additional to completion of FinCEN Form 112.

Currently, transactions of more than \$10,000 trigger the requirement to complete a CTR.<sup>3</sup> The threshold was established in 1972 and has not been adjusted for inflation. While the individual reports themselves do not take a significant amount of time to file, credit unions report the sheer volume of CTR reporting to be a burden on credit union resources and staff time. As such, we

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<sup>1</sup> 31 C.F.R. § 1010.311.

<sup>2</sup> See 89 Fed. Reg. 7,767, 7,768 (Feb. 5, 2024).

<sup>3</sup> 31 C.F.R. § 1010.311.

continue to push for the threshold to be increased to \$30,000. While not part of this RFC, we ask for your input on increasing the CTR reporting threshold.

### **Suspicious Activity Reports**

Along with CTRs, SARs are a significant source of regulatory burden associated with AML/CFT reporting requirements. Separately from the CTR RFC, FinCEN has issued a RFC to solicit input on the existing information collection associated with the filing of SARs (FinCEN Form 111).

The requirement for financial institutions to report any suspicious transaction relevant to a possible violation of law or regulation is authorized under 31 U.S.C. 5318(g). Specifically, FinCEN's rules require filing a CTR for several different types of transactions, including a transaction (or attempted transaction) that involves at least \$5,000 that the financial institution knows or suspects to involve funds associated with an illegal activity, is designed to evade BSA requirements, or generally has no apparent lawful purpose or is not of the variety the customer would normally engage in.

According to FinCEN, as provided in the RFC, the current estimated burden for a financial institution to complete a SAR is approximately two hours (on average). Like the CTR burden estimate, we believe the SAR estimate may be low. While we consistently urge FinCEN to also increase the SAR threshold—we have traditionally sought an increase to \$10,000—we lack actual numbers from affected credit unions. Please share your input through the questions associated with this Regulatory Comment.

### **Beneficial Ownership Requirements for Legal Entity Customers**

Lastly, FinCEN is also seeking input through a third RFC associated with the existing information collection for the beneficial ownership requirements for legal entity customers (*e.g.*, corporations and LLCs).

FinCEN's regulations generally require financial institutions to establish and maintain written procedures to identify and verify beneficial owners of new accounts opened by legal entity

customers and to include such procedures in their AML programs.<sup>4</sup> Financial institutions must also maintain a record of the identifying information obtained. They must retain records used to identify each beneficial owner for five years after the account is closed and also retain records used to verify the identity for five years after the record is made.

As included in the RFC, the current estimated burden to comply with the beneficial ownership requirements for legal entity customers is: 20 minutes to update and maintain beneficial ownership identification procedures; and 80 minutes to conduct customer identification, verification, and review and recordkeeping of the beneficial ownership information. Again, to effectively advocate for improvements to current regulatory requirements, we urge credit unions to share specific information on the time and staff resources necessary to comply with this and other AML/CFT requirements.

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<sup>4</sup> 31 C.F.R. § 1010.230. As required by section 6403(d) of the Corporate Transparency Act (CTA), which was enacted as part of the AML Act, FinCEN intends to revise the requirements of 31 CFR 1010.230 to bring them into conformance with the CTA. As part of the revisions to 31 CFR 1010.230, FinCEN intends to further assess the PRA burden of these requirements.