Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John K. Fiorilla, 8000 Midlantic Drive, Suite 300S, Mount Laurel, NJ 08054.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 24, 2012.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–4843 Filed 2–28–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection and Reporting Activities; Electronic Filing of Bank Secrecy Act (BSA) Reports; Final Notice

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

ACTION: Final notice.

SUMMARY: FinCEN is adopting a requirement that all financial institutions subject to Bank Secrecy Act (BSA) reporting use electronic filing for certain reports beginning no later than July 1, 2012. FinCEN will consider limited hardship exemptions in certain circumstances.

DATES: Effective date is July 1, 2012.

Inspection of comments received. If a financial institution wishes to review comments received in response to the September 16, 2011, **Federal Register** notice they 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). Comments received in response to the above notice are not open for further comment. Electronic copies of the received comments may be reviewed at: *http://www.fincen.gov/statutes_regs/bsa/bsa_data_field_comment_20111118.html.*

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Helpline at 800–949–2732, select option 7.

SUPPLEMENTARY INFORMATION:

Title: Bank Secrecy Act Reporting, (31 CFR chapter X).

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 (Secretary), *inter alia,* to require financial institutions to 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.[1] Regulations implementing Title II of the BSA appear at 31 CFR chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The Secretary was granted authority with the enactment of Title 31 U.S.C., to require financial institutions and other persons to file various BSA reports. The information collected on the reports is required to be provided pursuant to Title 31 U.S.C., as implemented by FinCEN regulations found throughout 31 CFR chapter X. The information collected pursuant to this authority is made available to appropriate agencies and organizations as disclosed in FinCEN's Privacy Act System of Records Notice.[2]

Current Action: In support of Treasury's paperless initiative and efforts to make government operations more efficient, FinCEN has chosen to mandate electronic filing of certain BSA reports effective July 1, 2012.

This requirement will significantly enhance the quality of FinCEN's electronic data, improve its analytic capabilities in supporting law enforcement requirements, and result in a significant reduction in real costs to the U.S. government and ultimately to U.S. taxpayers. Specifically, this action makes mandatory the electronic submission of all BSA reports *excluding* the Report of International Transportation of Currency or Monetary Instrument Report (CMIR).[3] Further, the Report of Cash Payments Over $10,000 Received in a Trade or Business (Form 8300) may be filed electronically, but because of statutory restrictions that may pertain to this report, which is required under both FinCEN and IRS regulations,[4] electronic filing of Form 8300 will not be mandatory.

Background: Since October 2002, FinCEN has provided financial institutions with the capability of electronically filing BSA reports through its system called BSA E-Filing. Effective August 2011, the system was expanded to support individuals filing the Report of Foreign Bank and Financial Accounts (FBAR) report. BSA E-Filing is a secure, web-based electronic filing system. It is a flexible solution for financial institutions or individuals, whether they file one BSA report or thousands. BSA E-Filing is a service that filers can access by using their existing Internet connections regardless of connection speed. In addition, it is designed to minimize filing errors and provide enhanced feedback to filing institutions or individuals, thereby providing a significant improvement in data quality.

BSA E-Filing, which is provided free of charge, offers streamlined BSA information submission; faster routing of information to law enforcement; greater data security and privacy compared with paper forms; long-term cost savings to institutions, individuals, and the government; and ensures compatibility with future versions of BSA reports.

In addition, BSA E-Filing offers the following features not available to paper filers:

- Electronic notification of submissions, receipt of submission, and errors, warnings, and alerts;
- Batch validation;
- Acknowledgement that a batch-filed currency transaction report (CTR) and/or suspicious activity report (SAR) was received;
- Feedback reports to filers;
- Faster acknowledgement to money services businesses of receipt of their registration;
- Ability to send and receive secure messages;
- Use of Adobe forms that allows users to create templates, reducing data entry but still providing for printing paper copies if the filer wants a paper copy for its internal review and approval processes;
- Ability for supervisory users to assign system roles to their staff; and
- Access to training materials.

In 2010, FinCEN initiated a complete redesign and rebuilding of a new

[1] Language expanding the scope of the BSA 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 Act of 2001 (the USA PATRIOT Act), Public Law 107–56.

[2] FinCEN completed its triennial review of its System of Records Notices. Updated Notices will be published in the **Federal Register** pending the completion of the required comment period.

[3] All CMIRs are filed with the Department of Homeland Security's Customs and Border Protection (CBP) at the port of entry/exit or mailed to the Commissioner of Customs in Washington, DC. There are no electronic filing capabilities at the ports. A CBP contractor keys the data on the completed form into a data tape that is electronically uploaded to the BSA database. FinCEN receives no paper filed CMIRs.

[4] *See* 26 U.S.C. 6011(e)(2); *see also* 26 CFR 1.6050I–1(e)(3)(i) and 31 CFR 1010.330(e)(1).

system-of-record database that significantly enhanced FinCEN's technical capabilities to receive, process, share, and store BSA data. A significant part of this upgrade was the implementation of state-of-the-art electronic reporting or information collection tools. As of December 31, 2011, over 86% of BSA reports are filed electronically with FinCEN.[5]

As a result of the 2010 initiative, FinCEN is in the process of fielding a new BSA Collection, Processing, and Analytic system. The new system, which includes significant e-filing improvements, is designed to support the most efficient state-of-the-art electronic filing. The database will accept Extensible Markup Language (XML) based dynamic reports as well as certain other file formats. The XML Schema, and the American Standard Code for Information Interchange (ASCII) file formats are available,[6] and the electronic file specifications were provided to filers September 8, 2011.

All filings (batch, computer-to-computer, and discrete) will be initiated through the BSA E-Filing System[7] using updated registration and log-in procedures that correct several identified limitations noted in the comments received on the September 16, 2011 Notice.[8] Although batch and computer-to-computer filing processes will remain unchanged, the file format was changed to match the database. Batch and computer-to-computer filers will file reports based on the electronic file specification that was provided in September 2011. A discrete filing (the replacement for submitting a single paper report) is based on Adobe *LiveCycle Designer ES* dynamic forms. The discrete function is available for all filers but is designed especially for small business report filers (as well as individuals). The discrete filing function will be accessed by logging into the BSA E-Filing System and entering a pre-approved user ID and password. During log-in to the discrete filing option, filers will be prompted through a series of questions.[9]

Today's notice requiring filers to submit certain BSA reports electronically using the free FinCEN BSA E-Filing System will provide a range of benefits. Electronic filing will facilitate the rapid dissemination of financial and suspicious activity information in connection with BSA filings, making information contained in these filings more readily available to—and more easily searchable by—law enforcement, the financial regulatory community, and other users of BSA data. Additionally, the requirement that certain BSA reports be filed electronically will result in a significant reduction in the use of paper, producing a positive environmental impact. Further, the implementation of the requirement to file electronically has the potential to save the government a few million dollars per year through the reduction of expenditures associated with current paper processing, in particular the physical intake and sorting of incoming reports, and the electronic keying of reported information into the database.

Security: Mandatory electronic filing will provide increased security not available with paper filings. At the present time, all paper reports are mailed to the IRS Enterprise Computing Center—Detroit (ECC–D) in Detroit, Michigan, as unclassified mail with no special handling via the U.S. Postal Service system. On occasion, mailed paper reports have been delayed, and in some cases damaged beyond readability. A financial institution may not discover that a report could not be processed by ECC–D until many months after the report was due.[10] The BSA E-Filing System is a secure 128-bit single socket layer (SSL) protected Web-based filing system. Reports received are acknowledged and any noted errors are reported back to the filer. This process provides the filer with a record that the required filing was received, as well as suggestions on how to improve the quality of their future reports. Reports originated by the filer are posted securely and directly to the database, thereby significantly reducing or eliminating the possibility of data compromise.

Filer Impact Assessment: On September 16, 2011,[11] FinCEN published a notice proposing that BSA reports be filed electronically through the BSA E-File System by June 30, 2012, effective July 1, 2012. In response to the request for comments, FinCEN received 27 responses. In general, the comments supported the requirement but noted areas requiring further clarification from FinCEN. A significant number of financial institutions anticipated encountering problems in meeting the June date for both e-filing and incorporating the new FinCEN CTR and SAR formats. In response, FinCEN published a notice extending the deadline to implement the new reports until March 31, 2013, (see *http://www.fincen.gov/whatsnew/pdf/20111220.pdf*) but retained the July 1, 2012, target date for electronic filing. As noted in several comments, FinCEN recognizes that mandating electronic filing may pose a challenge for some financial institutions. As reflected in the notice referenced above, for those financial institutions unable to meet the proposed electronic filing target date, FinCEN will consider, based upon certain very limited hardship exceptions, specific requests to extend the time to electronically file the most current paper forms for up to a year past the mandatory electronic filing date. Information on how financial institutions can make such requests is provided in a separate notice.[12] In addition, FinCEN will work with appropriate industry regulators to minimize the impact of this change, while moving forward with the electronic filing requirement.

Several commenters noted a time-to-file change in the CTR electronic filing specification for the FinCEN CTR from the current 25 days to 15 days.[13] FinCEN has consistently maintained a regulatory requirement that CTRs be filed within 15 days.[14] Notwithstanding this requirement, in connection with its receipt of magnetic media files initiated in late 1987, and ending in December 2008, FinCEN issued specifications referencing a 25-day period to assist institutions seeking to take advantage of this filing method via a common business practice of submitting magnetic media files on a fixed schedule. The 25-day period was implemented to account for physically transporting (shipping) the magnetic media to the ECC–D in Detroit, Michigan. FinCEN understands that this business practice has continued with respect to batch e-filing, particularly in light of public FinCEN guidance referencing the 25-day period.[15] In light of the comments received and acknowledging that some financial

[5] As of December 2011, there are over 14,500 registered E-Filing System users.

[6] Copies of the XML and ACSII file formats may be obtained by contacting the BSA E-Filing Help Desk at 1–866–346–9478 (option 1) or via email at *BSAEFilingHelp@fincen.gov.*

[7] More information on filing methods via FinCEN's free Web-based service may be accessed at *http://bsaefiling.fincen.treas.gov/main.html.*

[8] *See* 76 FR 57799.

[9] A series of predetermined questions was designed to establish the type of institution and filing in much the same manner as used in widely accepted income tax filing software.

[10] A delayed or damaged report becomes more critical if it was reporting suspicious activity—especially when relating to terrorist financing.

[11] *See* 76 FR 57799, September 16, 2011.

[12] *See http://www.fincen.gov/whatsnew/html/20120221.html.*

[13] The FinCEN CTR filing specifications may be viewed at *http://bsaefiling.fincen.treas.gov/news/FinCENCTRElectronicFilingRequirements.pdf. See* Appendix D page 49.

[14] *See* 31 CFR 1010.306(a)(1).

[15] *http://bsaefiling.fincen.treas.gov/FAQs.html.*

institutions may need to change their business processes to become compliant with the rules, FinCEN has determined that it will temporarily maintain the 25-day compliance period referenced in its earlier specifications until March 31, 2013. This temporary extension to the filing requirements should allow sufficient time for filers to adjust submission schedules to meet established regulatory requirements.

A few commenters noted specific E-File System/Site technical concerns, such as difficulty with password management or field lengths. Several of the issues noted in these comments will be addressed by planned system enhancements, and others are being evaluated. Several commenters pointed out that their institutions filed very few BSA reports a year and noted that filing paper reports was their preferred method. In response, FinCEN would note that the discrete option of the BSA E-Filing System was specifically designed to accommodate the small volume filers. One commenter requested that FinCEN permit firms to file BSA reports in a hardcopy format as a contingency alternative if material issues arise with their respective e-filing systems or FinCEN's database, which would prevent firms from, among other things, batch filing their reports. As a response, FinCEN would note that it has Continuity of Operations Plans (COOP) and E-filing System back-up contingency plans in place to address such issues should they occur. Additionally, the BSA E-Filing helpdesk is available to assist BSA filers as necessary if technical problems are encountered. Finally, one commenter elected to direct comments to two earlier notices,[16] which did not address mandatory electronic filing.

Industry Impact Assessment:

a. *Depository institutions:* Based on responses and updated information, FinCEN believes this change in filing procedures will have some impact on small institutions, but that the overall impact on this group of filers will be minimal. Most depository institutions are currently required to file quarterly call or thrift financial reports with their regulator electronically[17] through a Web-based portal provided by the appropriate federal regulator. This same electronic connectivity may be used to file BSA reports with FinCEN by logging in to the BSA E-Filing System Web-based portal. As noted above for those financial institutions unable to meet the proposed electronic filing deadline, FinCEN will consider, based upon certain very limited hardship exceptions, specific requests to file the most current paper forms for up to one year but no later than July 1, 2013.[18]

b. *Broker-Dealers, Futures Commission Merchants (FCMs), Introducing Brokers in Commodities (IB–Cs), and Mutual Funds:* In view of the comments received and the notice extending the deadline to implement the new reports until March 31, 2013, this change in filing procedures should have minimal impact on these filing institutions. This group is highly automated and enjoys robust electronic buying and selling systems with sophisticated processing and reporting systems.[19] Currently the Securities and Exchange Commission (SEC) mandates electronic filing,[20] as does the Commodity Futures Trading Commission (CFTC).[21]

c. *Insurance companies:* FinCEN received no comments from this financial sector. In view of this, and an understanding that institutions in this financial sector are highly automated,[22] FinCEN believes that this change in filing procedures will have minimal impact on these institutions.

d. *Casinos and Card Clubs:*[23] FinCEN received no comments from this financial sector. In view of this, and an understanding that institutions in this financial sector are highly automated, FinCEN continues to believe this change in filing procedures will have minimal impact on these institutions.

e. *Money Services Businesses (MSBs):* FinCEN received comments from two commenters. Both were supportive of moving to electronic filing but noted timing and technical issues that mirrored other commenters. The relief provided by delaying the implementation date of the FinCEN CTR and SAR to March 2013 addresses their primary concern. Information in trade journals and other publications, along with informal comments from the Internal Revenue Service's Small Business/Self Employed group, indicate that most filers have Internet connectivity. They routinely place orders for goods and services through the Internet and access bill paying services electronically. Information gained from a review of MSB filings of the CTR, SAR, and Registration of Money Services Business (RMSB) forms indicates that this group will be most impacted in the form of training needed to use the electronic E-Filing System. One large MSB acknowledges the significant benefits of mandatory E-Filing. However, they note that the elimination of paper filing will significantly impact 25% to 30% of their small delegate population, and they strongly suggest that some form of paper filing remain acceptable for at least six months beyond the effective date of July 1, 2012, or for a minimum of one year from publication of the final rule. To lessen any impact, FinCEN will provide for hardship exceptions in case unforeseen situations arise and will be providing information on how to make requests for limited hardship exceptions in a separate notice.[24] Additionally, any impact is expected to be counterbalanced by the benefits of e-filing to the government and ultimately to taxpayers.

f. *Service Providers:* There is a network of third-party service providers with which financial institutions may contract to provide electronic filing services to the BSA E-Filing System. FinCEN believes this group to be highly automated and many are already using the BSA E-Filing System. FinCEN does not anticipate that this requirement will have an impact on this group.

g. *Small businesses:*[25] In support of small businesses, FinCEN's Office of Compliance will provide procedures for

[16] *See* 75 FR 63545, October 15, 2010 and 76 FR 4747, January 26, 2011. Office of Management and Budget (OMB) approvals of the two notices, following FinCEN's solicitation and review of public comments, are as follows: FinCEN's new SAR, *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201104-1506-002,* and FinCEN's new CTR, *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201105-1506-001.* FinCEN announced the availability of technical e-filing specifications for the new SAR and CTR on September 8, 2011, as follows: *http://www.fincen.gov/news_room/nr/html/20110902.html.*

[17] Several commenters advised that approximately 200 very small financial institutions mail their report to their regulator who in turn posts it to the regulator's database.

[18] *See supra* note 12.

[19] Currently both the SEC and the CFTC require electronic reporting, the SEC through the EDGAR system and the CFTC through the NFC Windjammer and Easy File systems.

[20] *See http://www.sec.gov/info/edgar/regoverview.htm.*

[21] For financial institutions subject to CFTC oversight, *see* NFA Electronic Filings at *http://www.nfa.futures.org/NFA-electronic-filings/index.HTML.*

[22] *See* the National Insurance Producer Registry (NIPR) at *http://www.nipr.com/.* NIPR is a unique public-private partnership that supports the work of the states and the National Association of Insurance Commissioners (NAIC) in making the producer-licensing process more cost-effective, streamlined and uniform for the benefit of regulators, the insurance industry and the consumers they protect and serve.

[23] Casinos and Card Clubs with gross annual gaming revenues in excess of $1 million (*see* 31 CFR 1010.100(t)(5)(ii) and (6)(ii)).

[24] *See supra* note 12.

[25] *See* the Small Business Administration's (SBA) Web site *http://www.sba.gov/content/what-sbas-definition-small-business-concern* for SBA's definition of a small business concern.

filers to request a temporary limited hardship exemption from mandatory E-Filing. A small business may request, and may be granted an emergency extension by FinCEN based upon certain very limited hardship exemptions.[26]

h. *Individual filers:* Effective August 2011, FinCEN expanded the option to electronically file the Report of Foreign Bank and Financial Accounts (FBAR) to individuals. Individuals worldwide can sign up to file their individual FBARs by accessing the FinCEN E-Filing Web site.[27]

i. *Other Filing Issues:* One commenter noted a potential issue with duplicate filings that are currently required by several States. FinCEN will continue to address the duplicate filing issue with the States involved. FinCEN noted this issue in its SAR Confidentiality notice filing.[28]

j. *Report of Cash Payments Over $10,000 Received in a Trade or Business (Form 8300).* Although FinCEN is making electronic filing of the Report of Cash Payments Over $10,000 Received in a Trade or Business, Form 8300, available to the filing public and will encourage the use of electronic filing as a fast and secure means for filers to meet their obligations, FinCEN is not mandating the E-Filing of this report at this time to remain consistent with statutory restrictions under 26 U.S.C. 6011(e)(2) that may pertain to this report, which is required under both FinCEN and IRS regulations.

Paperwork Reduction Act (PRA)

Type of Review: Review of the final notice to mandate the electronic filing of BSA reports. The burden associated with this notice is reflected below.

Affected Public: Businesses or other for-profit and non-profit institutions.

Frequency: As required.

Estimated Burden: Effective with the FinCEN IT Modernization, there will be seven BSA reports.[29] The burden for electronic filing and recordkeeping of each BSA report is reflected in the OMB approved burden [30] for each of these reports. The non-reporting recordkeeping burden is reflected separately.[31]

Estimated Number of Respondents for all reports = 74,900.[32]

Estimated Total Annual Responses for all reports = 16,172,770.

Estimated Total Annual Burden Hours = 20,874,761.[33]

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. Records required to be retained pursuant to the BSA must be retained for five years.

Dated: February 22, 2012.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2012–4756 Filed 2–28–12; 8:45 am]

BILLING CODE 4810–02–P

[26] *Supra* footnote 12.

[27] *See Background section.*

[28] *See* 75 FR 75598, December 3, 2010, footnote 20. Such ''dual filing'' requirements, regardless of whether the State authority examines for compliance with State laws requiring compliance with the BSA, are inherently inconsistent with 31 U.S.C. 5318(g)(4), which clearly intends that all SARs be filed to a single government agency designated by the Secretary of the Treasury.

[29] FinCEN–SAR, FinCEN–CTR, Designation Of Exempt Person, CMIR, RMSB, Foreign Bank Account Report, and the Report of Cash Payments Over $10,000 Received in a Trade or Business (Form 8300).

[30] *See* OMB control numbers 1506–0065, 1506–0064, 1506–0009, 1506–0013, 1506–0014, 1506–0018.

[31] *See* OMB control numbers 1506–0051 through 1506–0059.

[32] All filers subject to BSA reporting requirements excluding CMIR, *see supra* note 3.

[33] Includes all reporting and recordkeeping burden associated with filing BSA reports.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of 3 Individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 3 individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of the 3 individual(s) and 0 entity(-ies) in this notice, pursuant to Executive Order 13224, are effective on February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary