



September 9, 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 on Information Sharing Between Government Agencies and Financial Institutions (Docket No. FINCEN—2022—0008 and OMB Control Number 1506-0049)

To Whom It May Concern:

The Bank Policy Institute¹ appreciates the opportunity to respond to the Financial Crimes Enforcement Network's proposed renewal, without change, of the information collection relating to information sharing between government agencies and financial institutions under Section 314(a) of the USA PATRIOT Act.² Information sharing between the public and private sector is essential to our joint efforts to address illicit financial activity around the globe and the authorities granted under Section 314 of the USA PATRIOT Act are key to realizing an efficient and effective U.S. anti-money laundering and countering the financing of terrorism regime.

We recognize that FinCEN's notice stipulates that "[t]he PRA does not apply to the requirement in section 1010.520(b) concerning reports by financial institutions in response to a request from FinCEN on behalf of a Federal law enforcement agency...[t]herefore, this renewal applies only to the use of

¹ 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.

² 87 Fed. Reg. 41186.

314(a) requests with respect to queries initiated by non-Federal law enforcement entities”³ and that the attending burden estimates account for this limit. However, for financial institutions that track this information, it is difficult to extrapolate burden estimates associated with non-Federal law enforcement requests from those associated with Federal law enforcement requests, therefore we’re unable to provide concrete data applicable to this population of requests, but based on anecdotal evidence, believe that FinCEN’s estimates generally reflect the time banks spend fulfilling non-Federal law enforcement requests. However, we would note that FinCEN’s estimates significantly underestimate the time that banks spend responding to all 314(a) requests and provide additional information on this below.

As FinCEN notes, the actual screening and searching for a client is somewhat automated, generally leveraging existing customer screening systems.⁴ However, once matches are produced, they need to be further investigated, regulatory records created (e.g., documenting that the searches were performed and the correct action taken, including internal communications and investigatory information) and other due diligence conducted (including potentially reaching out to the investigator for further information) to confirm whether the alert indeed matches the 314(a) subject.

The length of this review is defined by the type and quality of information the requesting investigator has provided as well as the number of alerts generated from searches, which can be driven by information quality issues, and the amount of manual review required. A common name that does not have a social security number or other concrete identifying information (e.g., document identification number) may generate hundreds of potential matches. There are also often numerous AKAs provided for named subjects, so a single request might involve several different and often dissimilar names that must be searched. One institution indicated that common names can create over 2,000 potential matches, with this institution also indicating that a single 314(a) cycle has generated approximately 26,000 alerts. Another institution indicated that one 314(a) list of 1,000 to 2,000 names can result in over 10,000 alerts for further investigation. Finally, a different bank stated that its 314(a) false positive rate is above 80%, after performing additional research to confirm whether the account is connected to the identified subject. Ultimately, it takes banks of all sizes a significant amount of time to investigate alerts and confirm whether they match a 314(a) subject.

For some large institutions, it is necessary for numerous different business lines to search their respective records for 314(a) matches and then refer potential matches to a central response team. Depending on the volume of matches, at least one or two analysts will investigate alerts and one senior team member or attorney will review their work – with senior management informed of the results. For some institutions, this process can take the full two weeks – the regulatory provided time period – to disposition alerts and provide the requisite information to FinCEN. Additional factors that can impact the

³ Fed. Reg. 41187.

⁴ Often, documentation confirming identifiers or any discrepancies in identifiers is noted within the alerting software as part of documenting the results of the research.

time it takes for institutions to process alerts include the number of clients an institution provides services too and the types of businesses it has and/or acquisitions it has made.

Ultimately, these factors play into the aggregate amount of time institutions invest in 314(a) requests, which means that there can be significant differences amongst banks when it comes to estimates related to these requests. For example, at least one institution has indicated that it takes approximately 13 minutes per 314(a) subject or 1,820 hours annually to respond to such requests, whereas another institution, which has to do significant research across numerous business lines, indicated that it takes roughly one hour to search and review each named subject. With this disparity in mind and the various factors discussed above that impact banks' burden estimates, we would be happy to discuss bank 314(a) practices with FinCEN further should it be helpful as the agency continues to consider this burden estimate. BPI members firmly believe that public-private sector sharing has significantly benefited the U.S. AML/CFT regime and would welcome the opportunity to work with FinCEN as the U.S. model continues to evolve.

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BPI appreciates FinCEN's consideration of its feedback on this information collection renewal. If you have any questions, please contact the undersigned by phone at 202-589-1935 or by email at Angelena.Bradfield@bpi.com.

Respectfully submitted,



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