



Audit Report



OIG-23-030

ANTI-MONEY LAUNDERING/TERRORIST FINANCING

**Audit of FinCEN's Management of BSA Data
- Suppression Report**

August 31, 2023

Office of Inspector General
Department of the Treasury

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Abbreviations

BSA	Bank Secrecy Act
CTR	Currency Transaction Report
FinCEN	Financial Crimes Enforcement Network
GAO	Government Accountability Office
Green Book	<i>Standards for Internal Control in the Federal Government</i>
IC	intelligence community
ID	identification number
JAMES	Joint Audit Management Enterprise System
LE	law enforcement
MOU	memoranda of understanding

OIG	Office of Inspector General
PD	Policy Division
RAWG	Reports Assessment Working Group
SAR	Suspicious Activity Report
SOD	Strategic Operations Division
SOP	Standard Operating Procedure
Treasury	Department of the Treasury



Audit Report

August 31, 2023

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Director
Financial Crimes Enforcement Network

This report is the first in a series of reports presenting the results of our audit of the Department of the Treasury's (Treasury) Financial Crimes Enforcement Network's (FinCEN) management of the Bank Secrecy Act (BSA)¹ data. Our audit objective was to determine if FinCEN manages BSA data access, use, and retention in compliance with laws, regulations, and Treasury policies and procedures (hereinafter referred to as standard operating procedures (SOP)). This audit report addresses FinCEN's retention of BSA data, and more specifically suppression, which is a part of the retention process wherein FinCEN restricts access to specific financial records. We plan to issue three additional audit reports, the first two of which will address BSA data access, including FinCEN's processes for: (1) granting and revoking access to the BSA database, including bulk data;² (2) maintaining a compliant systems of records notice; and (3) establishing and maintaining memoranda of understanding (MOU). Publication of the fourth and final report, addressing FinCEN's management of BSA data use, specifically FinCEN's monitoring processes, will conclude our four-part audit of FinCEN's management of BSA data.

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- ¹ Titles I and II of P.L. 91-508, Currency and Foreign Transactions Reporting Act (commonly referred to as the "Bank Secrecy Act" or "BSA") (October 26, 1970), requires U.S. financial institutions to retain records and file reports to assist U.S. government agencies to detect and prevent money laundering. The BSA is codified at 12 U.S.C. 1829b and 1951-1960 and 31 U.S.C. 5311-5314 and 5316-5336, and includes notes thereto. FinCEN is responsible for implementing, administering, and enforcing compliance with the BSA and associated regulations.
- ² FinCEN's *Data Access Policy* describes bulk data as the transfer of entire copy sets of FinCEN BSA data to an external agency. While FinCEN previously used the term, "bulk data" during our audit scope period, it now uses the term, "Agency Integrated Access."

As mandated by the BSA, FinCEN maintains a government-wide data access service that includes reports or records,³ collectively referred to as BSA data. This data is useful in a range of governmental efforts to combat money laundering, including criminal, tax, or regulatory investigations and risk assessments, as well as intelligence or counterintelligence activities to protect against terrorism. To comply with its mandate, FinCEN maintains the BSA data filed in its BSA database. FinCEN officials told us they currently retain all of the BSA data indefinitely, but are exploring ways to archive BSA data older than 11 years moving forward. FinCEN provides BSA database access to employees from FinCEN and external intelligence, law enforcement (LE), and regulatory agencies.

In this report we audited FinCEN's suppression process, a subset of data retention. In suppressing data, FinCEN limits access to specific BSA records determined to be inaccurate, duplicative, or highly sensitive in matters pertaining to national security or LE. Our testing was limited to suppressed records; we did not test whether all filed records were included in the BSA database.

To accomplish our objective as it relates to this audit report, we reviewed applicable laws, regulations, SOPs, and guidance; interviewed FinCEN personnel; interviewed and surveyed personnel at external agencies that access the BSA database; and non-statistically selected and tested BSA record suppression requests. We conducted fieldwork related to this report from June 2019 through March 2021. Appendix 1 provides a more detailed description of our audit objective, scope, and methodology.

Results in Brief

FinCEN did not process all BSA record suppression requests timely, adequately, and in accordance with FinCEN policy. Specifically, FinCEN did not: (1) timely process and adequately document the disposition of suppression requests, to include notifying requesters in writing; and (2) ensure that bulk data

³ 31 U.S.C. 310, *Financial Crimes Enforcement Network*

recipients removed suppressed records from their respective databases.

Accordingly, we are making six recommendations to improve FinCEN's BSA record suppression process. We recommend that the Director of FinCEN: (1) update *Policy and Procedures for BSA Record Suppression and Duplicate BSA Record Suppression Process* to establish a timeliness metric for processing suppression requests and to require that all relevant tracking information, such as BSA identification numbers (ID), is maintained; (2) update *Policy and Procedures for BSA Record Suppression and Duplicate BSA Record Suppression Process* to require a review of suppression requests for timeliness and appropriate processing and documentation; (3) ensure that suppression requesters are notified in writing of suppression disposition and suppressions are documented in accordance with SOPs; (4) establish a dedicated email address for receiving LE suppression requests and designate an alternate person for processing suppressions; (5) require agencies that receive bulk data to remove suppressed records as a condition of their MOUs; and (6) publish and communicate guidance explaining how FinCEN will notify bulk data agencies of records to be suppressed within bulk data files and specifying the timelines for FinCEN and the agencies' required actions regarding the suppression of the records.

In a written response, which is included in its entirety as appendix 2, FinCEN management concurred with our recommendations and provided their implemented and planned corrective actions. FinCEN management stated that they fully implemented 4 of our 6 recommendations and have interim measures in place until they can implement the remaining two recommendations. We have not verified that FinCEN implemented the stated corrective actions. FinCEN plans to modify its MOUs governing Agency Integrated Access and publish and communicate guidance regarding the suppression process to agencies with integrated access to BSA data. FinCEN's stated corrective actions meet the intent of our recommendations.

Background

FinCEN is responsible for maintaining a government-wide data access service for BSA records, which include Suspicious Activity Reports (SAR),⁴ Currency Transaction Reports (CTR),⁵ and other BSA reports (collectively referred to as “BSA data”), in its BSA database. Filers of BSA data submit approximately 55,000 BSA records to FinCEN per day. Filers of BSA data are mostly businesses. The most common business sector filing BSA data are financial institutions, most of which are required to file SARs and CTRs. However, other BSA reports are also filed with FinCEN, including by filers that are not businesses. For example, U.S. Customs and Border Protection, a federal government LE agency of the U.S. Department of Homeland Security, collects Reports of International Transportation of Currency or Money Instruments from individuals and provides that information to FinCEN. In addition, individuals file reports of foreign bank and financial accounts to FinCEN. FinCEN allows its employees and external LE, intelligence, and regulatory agency users to access the BSA database to conduct official agency business. The external users have access to BSA data under the terms of an MOU between FinCEN and the users’ agency.

User Access

To gain access to the BSA database, an agency submits a written request to FinCEN, and FinCEN personnel determine if the agency has sufficient need to access the data. If FinCEN approves the request, it will execute an MOU with the agency. Once an MOU is in place, FinCEN personnel provide the agency’s employees access to the database in conjunction with training. FinCEN has approximately 475 MOUs with external LE, intelligence, and regulatory agencies.

⁴ SARs must be filed with FinCEN to report known or suspected violations of law or regulation or suspicious activity observed by financial institutions for transactions exceeding \$5,000; money service businesses must report any such transactions exceeding \$2,000.

⁵ CTRs must be filed with FinCEN when a financial institution receives transactions in currency over \$10,000, or multiple transactions that total more than \$10,000 in a single day, conducted by or on behalf of one person.

Agencies are typically provided BSA data by either obtaining direct access to FinCEN Portal, a web-based application that allows authorized users access to the BSA database, or receiving bulk data. Agencies' users can directly retrieve BSA data through FinCEN Query, an online database query application within FinCEN Portal that allows users to search, access, and analyze the data. Agencies with bulk data access primarily receive BSA data by downloading an encrypted file daily from FinCEN Portal for importation into their respective databases. The encrypted file contains all of the BSA data that FinCEN received that day. FinCEN shared bulk BSA data with 11 agencies. There are approximately 14,000 FinCEN Portal users with direct access and 35,000 external agency bulk data users.

Suppression

Suppression is the process wherein FinCEN limits or restricts access to specific BSA records; however, FinCEN officials told us they currently retain all of the BSA records indefinitely. FinCEN prevents suppressed records from appearing in users' BSA database searches, but ensures that there is a stored copy of the record in the database.

There are two types of suppression used in the BSA system, limited and restricted. Under limited suppression, the system notifies the FinCEN Query user that a BSA record related to their search term(s) exists, but has been suppressed, and therefore, cannot be accessed without further request to FinCEN. Under restricted suppression, however, the system does not notify the user that a suppressed record related to their search term(s) exists. FinCEN Query users cannot access the suppressed records under either method.

FinCEN also requires agencies with access to bulk data to remove both types of suppressed records from their respective databases. Once FinCEN personnel suppress records, they notify these agencies to remove the records by sending them a notification in the next daily bulk data file, and it is incumbent upon these agencies to remove suppressed records from their databases.

Suppression Requests

There are two types of suppression requests submitted to FinCEN, duplicate and LE. A financial institution, upon detecting that they have submitted a duplicate BSA record, may send FinCEN a duplicate BSA record suppression request. Financial institutions can submit a suppression request for duplicate BSA records that were filed using the discrete or batch filing process. Suppression requests for discrete filings must include the BSA IDs of the original and duplicate BSA records. Suppression requests for a duplicate batch filing must include the Tracking ID of both the original and duplicate batch filing, in addition to the original and duplicate BSA ID numbers of all BSA records contained in each respective batch.⁶ FinCEN also receives LE suppression requests from LE and intelligence community (IC) agencies.⁷ These requests require a justification as to why the record should be suppressed. FinCEN may approve a LE suppression request if the related record contains apparently false or misleading data, grand jury information, classified or sensitive national security information, or sensitive LE information. Additionally, FinCEN can suppress BSA records without an external request, where after internal review, they deem the records merit suppression as they are highly sensitive or otherwise create unacceptable risk. Between January 2017 and February 2019, FinCEN suppressed approximately 20,000 duplicate records requested by financial institutions and 55 records requested by LE and IC agencies.

Both FinCEN's Strategic Operations Division (SOD) and Policy Division (PD) review incoming suppression requests to

⁶ Financial institutions can submit SARs or CTRs in batches containing multiple BSA records, or BSA IDs. FinCEN assigns a tracking ID to a batch duplicate suppression request; one would need the related batch files to determine the original and duplicate BSA IDs. If such files were erroneously submitted in duplicate, agencies can request suppression of the entire batch. FinCEN processes batch suppression requests according to the assigned Tracking ID, so all BSA records/IDs included in each batch are suppressed.

⁷ While LE and IC agencies submit suppression requests to FinCEN, they do not file BSA data. BSA data is mostly filed by financial institutions.

determine whether to authorize the suppression.⁸ For duplicate suppression requests, PD personnel review the request to confirm that the BSA record was improperly filed, instruct FinCEN's Technology Division personnel to suppress the record in the BSA database, and notify the requester of its approval. For LE suppression requests, SOD personnel send these to the Reports Assessment Working Group (RAWG),⁹ who review the justification for the suppression request to determine if it warrants suppression of the BSA record. If the LE suppression request is authorized by RAWG, SOD personnel notify the requester of its approval and instruct the Technology Division personnel to suppress the record in the BSA database. All documentation related to LE and duplicate suppression requests are documented in FinCEN's case management systems.

FinCEN's processing of suppression requests is conducted in three phases: (1) documenting the suppression request, (2) determining the disposition of the request, and (3) notifying the requester of FinCEN's disposition of the request. If a suppression request contains the required information, the suppression process will begin. If the request is missing information, FinCEN staff will contact the requester to request any missing information.

Audit Results

This report relates only to the retention portion of our audit objective, specifically whether FinCEN manages BSA data retention in compliance with laws, regulations, and SOPs. Our audit scope was limited to the suppression process. In this audit, we did not test whether all filed records were included in the BSA database. See appendix 1 for further discussion of our audit scope.

⁸ FinCEN officials told us that as of November 2019, its PD administers duplicate suppression requests. Prior to November 2019 and during our audit scope period, SOD administered both duplicate and LE suppressions. This change is documented in FinCEN's duplicate suppression SOP dated May 2023.

⁹ The RAWG is comprised of representatives from FinCEN's Strategic Operations, Enforcement, Intelligence, Technology, and Policy divisions as well as the Office of Chief Counsel.

FinCEN did not process all suppression requests timely, comply with suppression SOPs, and have adequate controls to ensure SOPs were followed. Specifically, FinCEN did not: (1) timely process and adequately document suppression request disposition, including notifying requesters in writing in accordance with its SOPs; and (2) ensure that bulk data recipients removed suppressed records from their respective database(s).

Finding 1

FinCEN's Processing and Documentation of Suppressions Was Untimely and Inadequate

FinCEN lacked timeliness metrics in its suppression SOPs and did not adhere to other provisions in its SOPs when processing and documenting suppression requests. Specifically, FinCEN did not: (1) process suppression requests timely, if at all; (2) notify requesters of the disposition of their suppression requests; and (3) properly document all suppressions processed.

Untimely and Unprocessed Suppression Requests

We tested duplicate suppression requests submitted in January 2018 to determine if they were properly processed. That month, financial institutions sent 135 duplicate suppression requests to the dedicated email address for duplicate suppression requests. FinCEN did not process 46 of 135 duplicate suppression requests (34 percent) until May 2020, after we brought the matter to their attention. FinCEN officials told us that the 46 requests were not processed because the spreadsheet containing the requests was overlooked.

We also non-statistically selected 104 duplicate suppression requests and all 20 LE suppression requests submitted between September 2017 and August 2018 and tested whether FinCEN timely and properly processed the requests. FinCEN took between 71 and 268 business days, or an average of 156 days, to suppress the requested 104 duplicate records. Table 1 provides a summary of our results on duplicate suppressions processed.

Table 1. Duplicate Suppressions Processed

Number of Days to Suppress	# of Records	Percentage
Under 70 Days	0	0%
71 – 100 Days	11	11%
101 – 150 Days	26	25%
Over 150 Days	67	64%
Total	104	100%

Source: OIG analysis of duplicate suppression requests

A FinCEN official told us that duplicate suppression requests are processed at the end of the month due to the volume of requests submitted. However, that official was not able to timely process the requests at the end of each month due to other duties.

For the 20 LE suppression requests submitted from September 2017 through August 2018, FinCEN took between 2 and 19 business days, or an average of 8 days, to suppress the requested records. Table 2 provides a summary of our results on LE suppressions processed.

Table 2. LE Suppressions Processed

Number of Days to Suppress	# of Records	Percentage
1 - 5 Days	14	70%
6 – 15 Days	1	5%
Over 15 Days	5	25%
Total	20	100%

Source: OIG analysis of LE suppression requests

A FinCEN official told us that 4 of the 5 LE requests took over 15 business days to process because FinCEN wanted to confirm no additional records needed to be suppressed; however, FinCEN could have suppressed the four requested records immediately while waiting for a response from the agency. The fifth LE request that took over 15 business days to process was submitted when the responsible FinCEN official was out of the

office; it was processed when she returned. Regarding one LE suppression request that took 10 days to process, she told us that it was elevated to the FinCEN Director for approval due to its sensitivity, which was in accordance with FinCEN policy.

We asked external LE and IC agencies that submitted LE suppression requests to FinCEN about their expectations regarding how long it should take to process these requests. One agency official told us that a week would be sufficient time for FinCEN to process the suppression request, but believes it could be done more quickly. An official from a different agency agreed that they would “expect a LE suppression to take place within a reasonable time frame, or less than a week’s time.” A third official from another agency told us that FinCEN’s delay in suppressing a BSA record increases operational risk, as it could expose an undercover agent’s identity. We asked FinCEN what a reasonable timeframe was, but they told us they could not provide an answer and would finalize an appropriate timeframe when they revise their suppression SOPs. FinCEN’s SOPs did not require a review of suppression requests for timeliness, nor appropriate processing and documentation.

In addition, FinCEN officials told us that LE suppression requests are sent directly to the email of an official in SOD, who singularly tracks and initiates the suppression process. This SOD official was the only person that received suppression requests, and thus is the only one capable of initiating suppressions. When asked if there are controls in place to prevent requests from being overlooked, FinCEN officials stated that the “...current process has proven to be effective for several years without interruption.”

The Government Accountability Office’s (GAO) *Standards for Internal Control in the Federal Government* (Green Book) Attribute 10.03, *Design of Appropriate Types of Control Activities*, states that management designs appropriate types of control activities for the entity’s internal control system, such as dividing or segregating key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud.¹⁰

¹⁰ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Sept. 2014), pp. 45-48

Green Book Principle 16.01, *Perform Monitoring Activities*, states that management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.¹¹ Further, Green Book Principle 12.01, *Implement Control Activities*, states that management should implement control activities through policies.¹²

Failure to completely and timely process duplicate suppression requests may result in quality control issues and create workflow inefficiencies for users of the BSA database. If LE suppression requests are not promptly and accurately processed, BSA records may reveal highly sensitive national security and LE information, such as details about undercover operations.

Without an established review policy and a dedicated email address for LE suppression requests, FinCEN is not able to ensure that staff are timely and appropriately processing suppression requests and maintaining documentation in accordance with SOPs and internal control principles.

Requesters Not Always Notified

FinCEN did not provide written notification, as required by policy, to suppression requesters. For all 104 duplicate suppression requests tested, FinCEN did not have documentation showing that the requester was notified in writing. Per FinCEN's *Duplicate BSA Record Suppression Process*, FinCEN must notify the requester that the suppression was completed. We also found that requesters were not notified in writing of the suppression disposition for 4 of 20 LE suppression requests (20 percent) we tested. FinCEN's *Policy and Procedures for BSA Record Suppression*, applicable to LE suppression requests, states that FinCEN will notify the requester in writing after a request is approved. A FinCEN official told us that she notified some requesters verbally because their duty station is at FinCEN's offices; however, such

¹¹ GAO, Green Book, p.65

¹² GAO, Green Book, p.56

verbal notification did not adhere to FinCEN's policy requiring notification to be made in the form of an email or letter.

FinCEN's lapse in appropriately notifying requesters of processed suppressions could lead to miscommunication and potential process inefficiencies.

Improperly Maintained Documentation

FinCEN was unable to provide documentation supporting that 89 of 104 duplicate suppressions (86 percent) processed from September 2017 through August 2018 were actually duplicates. For those 104 duplicate suppressions, we requested and compared the original BSA records and the corresponding suppressed duplicate records to verify that they were identical. FinCEN provided 15 original BSA records and their corresponding duplicates, which we were able to confirm as exact duplicates. These 15 records were discrete duplicate suppression requests, in which requesters specifically identified the records to be removed by their BSA ID. FinCEN was unable to provide documentation for the remaining 89 BSA records, which were received in batch requests. Batch requests contain multiple BSA records to be suppressed and only have a tracking ID for the request (not BSA IDs for each record). FinCEN's *Duplicate BSA Record Suppression Process* required the tracking ID and BSA ID of each discrete duplicate record request to be documented in the applicable case management system; however, it only required that the tracking ID be recorded for a batch request. A FinCEN official told us that the Technology Division validates each duplicate request before it is suppressed, but they did not have a process in place prior to October 2019 to capture the individual BSA IDs included in batch suppression requests. Officials from the Technology Division told us that the batch suppression method now in place can identify specific BSA IDs.

FinCEN also did not maintain all required documentation in its case management system regarding processed LE suppressions. FinCEN did not document internal deliberations and external communications for 5 of 20 LE suppression requests (25 percent), as required by FinCEN's *Policy and Procedures for BSA Record Suppression*. A FinCEN official maintained all of the

documents in her e-mail folder, but overlooked the process of documenting the items in the appropriate case management system.

Suppressions are an essential procedure in FinCEN's management of the BSA database, so improperly maintained documentation can lead to violations of Federal agency recordkeeping requirements and potential workflow inefficiencies.

Recommendations

We recommend that the Director of FinCEN:

1. Update *Policy and Procedures for BSA Record Suppression and Duplicate BSA Record Suppression Process* to establish a timeliness metric for processing suppression requests and to require that all relevant tracking information, such as BSA IDs, is maintained.

Management Response

FinCEN management concurred with this recommendation. FinCEN management previously notified our office that they fully implemented corrective actions to address this recommendation.

OIG Comment

We have not verified FinCEN management's corrective actions taken, however the stated actions meet the intent of our recommendation. Management should record the actual dates of its corrective actions in the Joint Audit Management Enterprise System (JAMES), Treasury's audit recommendation tracking application.

2. Update *Policy and Procedures for BSA Record Suppression and Duplicate BSA Record Suppression Process* to require a review of suppression requests for timeliness and appropriate processing and documentation.

Management Response

FinCEN management concurred with this recommendation. FinCEN management previously notified our office that they fully implemented corrective actions to address this recommendation.

OIG Comment

We have not verified FinCEN management's corrective actions taken, however the stated actions meet the intent of our recommendation. Management should record the actual dates of its corrective actions in JAMES.

3. Ensure that suppression requesters are notified in writing of suppression disposition and suppressions are documented in accordance with SOPs.

Management Response

FinCEN management concurred with this recommendation. FinCEN management previously notified our office that they fully implemented corrective actions to address this recommendation.

OIG Comment

We have not verified FinCEN management's corrective actions taken, however the stated actions meet the intent of our recommendation. Management should record the actual dates of its corrective actions in JAMES.

4. Establish a dedicated email address for receiving LE suppression requests and designate an alternate person for processing suppressions.

Management Response

FinCEN management concurred with this recommendation. FinCEN management previously notified our office that they fully implemented corrective actions to address this recommendation.

OIG Comment

We have not verified FinCEN management's corrective actions taken, however the stated actions meet the intent of our recommendation. Management should record the actual dates of its corrective actions in JAMES.

Finding 2

FinCEN Did Not Ensure All Agencies With Access to Bulk Data Removed Suppressed Records from Their Databases

Agencies that receive bulk BSA data must remove suppressed records from their databases; however, not all of these agencies removed suppressed records timely, if they removed them at all.

We surveyed seven bulk data recipient agencies to determine if they appropriately removed the 20 LE-sensitive records suppressed from September 2017 to August 2018 from their respective databases. Two of the agencies told us they did not remove any of the suppressed records from their databases and one agency thought they removed the records, but was not sure of the date. One agency responded that they took an average of 721 days to suppress these records from one of its systems, while another agency took an average of 88 days. The remaining two agencies responded that they removed the suppressed records within an average of 4 days.

According to FinCEN's *Policy and Procedures for BSA Record Suppression*, the Technology Division sends a change notification to bulk data agencies instructing them to cancel, override, or nullify the suppressed report in their respective database(s). FinCEN officials stated that the change notification is sent in the next bulk data file that agencies receive, with the suppressed records marked "C" for "cancel," and that it is incumbent upon the agencies to remove these records from their databases. While FinCEN personnel told us this notification was provided in the bulk data file, this process was not clear and there was no published guidance available to bulk data agencies informing them of how this notification is sent. Officials from 2 of 7 bulk data agencies surveyed told us that they were not aware of any notification or requirement to remove suppressed records from their databases. FinCEN did

not specifically require bulk data agencies to remove suppressed records as part of their MOUs and did not have a metric requiring agencies to remove suppressed records within a certain time frame. We consider this lack of guidance to be the primary reason that agencies are not properly removing suppressed records from their databases.

Green Book Principle 12.01, *Implement Control Activities*, states that management should implement control activities through policies,¹³ and Principle 15.01, *Communicate Externally*, states that management should externally communicate the necessary quality information to achieve the entity's objectives.¹⁴

Per Policy and Procedures for BSA Record Suppression, potential reasons for suppressing records include protecting national security and preventing LE exposure. Failure to timely remove suppressed records increases the risk that users of external agency databases could expose an ongoing highly sensitive undercover LE operation or counterintelligence investigation.

Recommendations

We recommend that the Director of FinCEN:

1. Require agencies that receive bulk data to remove suppressed records as a condition of their MOUs.

Management Response

FinCEN management concurred with this recommendation. FinCEN management plans to modify its MOUs to require agencies with integrated access to BSA data to remove suppressed records. FinCEN management told us they have interim measures in place until they can implement this recommendation.

¹³ GAO, Green Book, p. 56

¹⁴ GAO, Green Book, p. 62

OIG Comment

FinCEN management's stated corrective actions meet the intent of our recommendation. Management should record the expected date of implementation of its corrective actions in JAMES.

2. Publish and communicate guidance explaining how FinCEN will notify bulk data agencies of records to be suppressed within bulk data files and specifying the timelines for FinCEN and the agencies' required actions regarding the suppression of the records.

Management Response

FinCEN management concurred with this recommendation. FinCEN management plans to publish and communicate guidance regarding the suppression process to agencies with integrated access to BSA data. Management told us they have interim measures in place until they can implement this recommendation.

OIG Comment

FinCEN management's stated corrective actions meet the intent of our recommendation, assuming the proposed guidance includes specific timelines for suppression records. Management should record the expected date of implementation of its corrective actions in JAMES.

* * * * *

We appreciate the cooperation and courtesies provided to our staff during this audit. If you wish to discuss the report, you may contact me at (202) 607-7851 or Nick Slonka, Audit Manager, at (202) 486-1721. Major contributors to this report are listed in appendix 3.

Gregory J. Sullivan /s/
Audit Director

Appendix 1: Objective, Scope, and Methodology

The objective of our audit was to determine if the Financial Crimes Enforcement Network (FinCEN) manages Bank Secrecy Act (BSA) data access, use, and retention in compliance with laws, regulations, and Treasury standard operating procedures (SOP). This report addresses retention and presents results from our audit of FinCEN's suppression process. This report does not address BSA data access and use. We plan to issue three additional audit reports, the first two of which will address BSA data access, including: (1) FinCEN's processes for granting and revoking access to the BSA database, including bulk data; (2) maintaining a compliant systems of records notice; and (3) establishing and maintaining memoranda of understanding. Publication of the fourth and final report, addressing FinCEN's management of BSA data use, specifically FinCEN's monitoring processes, will conclude our four-part audit of FinCEN's management of BSA data.

FinCEN officials told us they currently retain all of the BSA records filed indefinitely, but are exploring ways to archive those older than 11 years. Therefore, all BSA data received by FinCEN should be available in their database and therefore also available in FinCEN Query, except in cases where certain records have been suppressed. We audited FinCEN's suppression process, a subset of data retention, but we did not test whether all filed records were included or retained in the BSA database as part of our audit. The scope of our audit, related to this report, covered the time period from September 2017 through August 2018. We conducted fieldwork related to this report from June 2019 through March 2021.

To accomplish our objective, we reviewed laws, regulations, SOPs, and guidance related to BSA records suppression, including:

- Titles I and II of P.L. 91-508, Currency and Foreign Transactions Reporting Act (October 26, 1970); codified at 12 U.S.C. 1829b and 1951-1960 and 31 U.S.C. 5311-5314 and 5316-5336 (including notes thereto)
- 31 CFR Chapter X, *Financial Crimes Enforcement Network, Department of the Treasury* (February 2, 2021)

Appendix 1: Objectives, Scope, and Methodology

- 31 U.S.C. 310, *Financial Crimes Enforcement Network* (December 27, 2021)
- Government Accountability Office, *Standards for Internal Control in the Federal Government*, (GAO-14-704G; Sept. 2014)
- Treasury, Order 180-01, "Financial Crimes Enforcement Network" (January 14, 2020)
- Treasury, Directive 80-05, "Department of the Treasury Records Management" (January 31, 2018)
- FinCEN, *Policy and Procedures for BSA Record Suppression* (Aug. 2017)
- FinCEN, *Duplicate BSA Record Suppression Process* (May 16, 2018)
- FinCEN, *Duplicate BSA Record Suppression Process* (May 28, 2020)
- FinCEN, *Data Access Policy* (March 18, 2014)

We interviewed FinCEN personnel involved in the management of the BSA database, including those from the:

- Strategic Operations Division
- Technology Division
- Enforcement Division

We interviewed officials from external agencies that use BSA data, including the:

- Drug Enforcement Administration
- Federal Bureau of Investigation
- Internal Revenue Service – Exam Case Selection and Criminal Investigation Divisions
- National Counterterrorism Center
- Office of the Comptroller of the Currency
- Organized Crime Drug Enforcement Task Force
- U.S. Customs and Border Protection
- U.S. Immigration and Customs Enforcement
- U.S. Secret Service

We conducted surveys with the following agencies that receive bulk BSA data:

- Federal Bureau of Investigation

Appendix 1: Objectives, Scope, and Methodology

- Internal Revenue Service – Exam Case Selection and Criminal Investigation Divisions
- National Counterterrorism Center
- Office of the Comptroller of the Currency
- Organized Crime Drug Enforcement Task Force
- U.S. Customs and Border Protection
- U.S. Immigration and Customs Enforcement

We non-statistically selected 104 of 2,614 duplicate suppression requests processed from September 2017 through August 2018. We also selected all 20 law enforcement (LE) suppression requests processed from September 2017 through August 2018. We tested each request to determine if FinCEN:

- ensured they contained all required information, such as the name of the financial institution or requester, justification for the suppression, BSA identification number, and tracking identification number;
- documented them in accordance with SOPs;
- processed them timely and in accordance with SOPs;
- notified the requesters after processing; and
- reviewed the suppressions after processing.

Additionally, we selected all 135 discrete duplicate suppression requests for the month of January 2018 to test if FinCEN processed all of the requests. The results of our non-statistical samples are not projected to the total population.

To assess the reliability of FinCEN's suppression data, we analyzed FinCEN Query data for errors in accuracy and completeness, and whenever available, compared the data against corroborating sources, such as emails from LE agencies or financial institutions requesting suppression or the Technology Division's emails confirming suppression of a BSA record. In performing our LE suppression testing, we were unable to determine if all LE suppression requests were appropriately processed, as FinCEN does not have a centralized method of receiving LE suppression requests. Rather, agencies send these requests to the email of an official in the Strategic Operations Division. We decided not to pull the official's emails, as the level of work entailed outweighed the benefit to our audit. We therefore limited our testing to the 20 LE suppression requests processed during the audit period. We reported in

Appendix 1: Objectives, Scope, and Methodology

Finding 1 that the lack of a dedicated email address to receive LE suppression requests is a weakness in the suppression process. Therefore, we were not able to verify the universe's completeness related to our LE suppression testing. In our duplicate suppression testing, FinCEN was unable to provide support, and therefore we were unable to verify that all duplicate BSA records suppressed as part of a batch suppression were actually duplicates, as noted in Finding 1.

For both LE and duplicate suppression testing, we found the data used to select our samples to be reliable strictly for the purposes of assessing whether the suppressions were: (1) properly requested, (2) properly processed, (3) performed timely, and (4) documented in accordance with FinCEN's SOPs.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix 2: Management Response



Financial Crimes Enforcement Network
U.S. Department of the Treasury

Office of the Director

Washington, D.C. 20220

August 18, 2023

Deborah L. Harker
Assistant Inspector General for Audit
Department of the Treasury – Office of Inspector General
1500 Pennsylvania Avenue
Washington, DC 20220

Dear Ms. Harker:

I write regarding the Office of Inspector General's (OIG) draft report entitled *Audit of FinCEN's Management of BSA Data – Suppression Report* (Draft Report). The Financial Crimes Enforcement Network (FinCEN) appreciates OIG's efforts to support FinCEN's management of data filed with FinCEN pursuant to the Bank Secrecy Act (BSA) and its implementing regulations.

As the Draft Report notes, FinCEN maintains a statutorily mandated, government-wide data access service that includes reports and records filed with FinCEN pursuant to the Treasury Department's BSA authorities. As set forth in the BSA, these reports and records are highly useful in a range of governmental efforts to combat money laundering and other forms of illicit finance, including, *inter alia*, criminal, tax, or regulatory investigations; intelligence or counterintelligence activities, including analysis, to protect against terrorism; and to facilitate the tracking of money that has been sourced through criminal activity or is intended to promote criminal or terrorist activity. FinCEN maintains these reports and records in its BSA Database. As part of its management of the BSA Database, FinCEN, on rare occasions, restricts access to, or "suppresses," BSA filings that are inaccurate, duplicative, or disclose particularly sensitive law enforcement or national security matters. Restricting access to BSA filings that are inaccurate or duplicative—usually referred to as Restricted Suppression or Duplicate Suppression—is generally done at the request of the original private-sector filer of the inaccurate or duplicate filing. Restricting access to filings that may disclose particularly sensitive law enforcement or national security matters—usually referred to as Limited Suppression or Law Enforcement Suppression—is generally done at the request of a federal law enforcement agency.

FinCEN is committed to ensuring that its management of the BSA Database complies with all relevant laws, regulations, policies, and procedures. As such, FinCEN considers rigorous oversight of its BSA data management efforts to be a critical aspect of FinCEN's mission. FinCEN agrees that the six recommendations set forth in the Draft Report will improve FinCEN's BSA record suppression process and, as explained below, FinCEN has already implemented or is taking steps to implement these recommendations.

www.fincen.gov

Appendix 2: Management Response

Ms. Deborah L. Harker

August 18, 2023

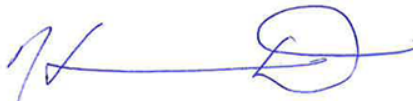
Page 2

The first four recommendations generally call for FinCEN to update its procedures governing both Restricted and Limited Suppression to establish timeliness metrics, improve tracking of information relevant to individual suppression determinations, ensure suppression requestors are notified in writing of the disposition of their request, and establish a dedicated email address for receiving Law Enforcement Suppression requests. In May 2023, we notified your office that we had fully implemented all of these recommendations.

The Draft Report's remaining two recommendations call for FinCEN to modify the Memoranda of Understanding (MOU) governing Agency Integrated Access (AIA) to condition such access on proper implementation of FinCEN's suppression determinations and for FinCEN to publish and communicate guidance regarding the suppression process to agencies with integrated access to BSA Data. FinCEN is in the process of updating all of its MOUs governing access to the BSA Database, and we plan to implement these two recommendations as part of that ongoing effort. Until that effort is complete, FinCEN has implemented an interim measure to help further ensure that each AIA MOU party is notified of every Law Enforcement Suppression they need to implement and that FinCEN receives confirmation that such suppression has been fully implemented. We look forward to providing your office with additional information about these efforts as they proceed.

We appreciate the opportunity to comment on the Draft Report, and we look forward to continuing to work with your office on the remaining aspects of your BSA data management audit efforts. Proper management of the data filed with FinCEN pursuant to the BSA and its implementing regulations is vital to FinCEN's mission to protect the U.S. financial system from illicit finance threats while enhancing the public's confidence in the management and oversight of BSA data.

Sincerely,



Himamauli Das
Acting Director
Financial Crimes Enforcement Network

Appendix 3: Major Contributors to This Report

Nick Slonka, Audit Manager
Justin Summers, Auditor-in-Charge
Darren Wright, Auditor
Lawrence Delva-Gonzalez, Referencer

Appendix 4: Report Distribution

Department of the Treasury

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Under Secretary, Office of Terrorism and Financial Intelligence
Office of Strategic Planning and Performance Improvement
Office of the Deputy Chief Financial Officer, Risk and Control Group

Financial Crimes Enforcement Network

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