

to the Board by the Office of Management and Budget. The Board has determined that the proposed regulations may reduce the burden on reporting institutions through the use of a simplified, shorter form, the filing of one form only, the raising of reporting thresholds, and the elimination of the submission of supporting documentation with a referral, as well as by the Board's provision to banking organizations of computer software to prepare the form. The estimated average burden associated with the collection of information contained in a SAR is approximately .6 hours per respondent. The burden per respondent will vary depending on the nature of the suspicious activity being reported.

Comments concerning the accuracy of this burden estimate should be directed to Mary M. McLaughlin, Division of Research and Statistics, Mail Stop 97, Federal Reserve Board, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

Executive Order 12291

The Board has determined that this proposed regulation is not a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedures, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Parts 208, 211, and 225 of chapter II of title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611,

1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318.

2. Section 208.20 is revised to read as follows:

§ 208.20 Suspicious Activity Reports.

(a) *Purpose.* This section ensures that a state member bank files a Suspicious Activity Report when it detects a known or suspected violation of Federal law or suspicious financial transaction. This section applies to all state member banks.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in Sections 3(u) and 8(b)(3) and (4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(3) and (4)).

(3) *SAR* means a Suspicious Activity Report form proscribed by the Board.

(c) *SARs required.* A state member bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury and in accordance with the form's instructions, by sending a completed SAR to FinCEN in the following circumstances:

(1) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction conducted through the bank, where the bank has a substantial basis for identifying one of its directors, officers, employees, agents, or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

(2) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating \$5,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and that the bank has a substantial basis for identifying a possible suspect or group of suspects.

(3) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction or

transactions conducted through the bank and involving or aggregating \$25,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no basis for identifying a possible suspect or group of suspects.

(4) Whenever the state member bank detects any financial transaction conducted, or attempted, at the bank involving funds derived from illicit activity or for the purpose of hiding or disguising funds from illicit activities, or for the possible violation or evasion of the Bank Secrecy Act reporting and/or recordkeeping requirements, even if there is no substantial basis for identifying a possible suspect or group of suspects. A suspicious activity report must be filed for all instances where money laundering is suspected or where the bank believes that the transaction was suspicious for any reason, regardless of the identification of a potential suspect or group of suspects or the amount involved in the violation.

(d) *Time for reporting.* A state member bank is required to file a SAR no later than 30 calendar days after the date of initial detection of the possible, known or suspected criminal violation or series of criminal violations. If no suspect was identified on the date of detection of the incident triggering the filing, a state member bank may delay filing a SAR for an additional 30 calendar days after the identification of the suspect. In no case shall reporting be delayed more than 60 calendar days after the date of the loss or the possible known or suspected criminal violation or series of criminal violations. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* State member banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A state member bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A state member bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f-1.

(g) *Retention of records.* A state member bank shall maintain a copy of