

How to Request Copies of FBAR Documents

If you need a copy of a paper-filed FBAR, you have two options for making such a request.

Option 1: Uncertified Copy

If you need an uncertified copy of a paper-filed FBAR, then please send a secured email request to Leah Smith Pope, Department Manager, BSA Compliance at Leah.Smith-Pope@irs.gov

Your email request should include the TP's name, SSN and DCN (Document Control Number).

Additional Notes:

- This request can be made for investigative purposes and does not require approval from a manager.
- Do not request copies of electronically filed FBARs
- To respect FinCEN's concerns about preserving the Freedom of Information Act [FOIA] exclusion for Title 31 documents, copies of the original document may NOT be provided to the filer or other third-party.

The BSA Compliance Team will return a scanned image of the original document to the examiner by secure email.

Option 2: Certified Copy

Certified copies of FBAR documents must be formally requested, in writing, through FinCEN. You must have a valid reason for requesting a certified copy, such as for a trial. For criminal cases, the request should be made through the special agent. For civil cases, the civil agent may make a request if the trial attorney feels that it is imperative to have the information in order to move forward with the case.

The pages that follow are the directions and guidelines for requesting a certified copy.

GUIDANCE FOR REQUESTING CERTIFIED DOCUMENTS FROM FINCEN

1. The requests should be emailed to certifieddocs@fincen.gov . The request letter should be encrypted before being sent to FinCEN. A separate email should be sent to the email address above with the password for the previous emailed documents. **DO NOT SEND THE REQUEST TO THE FINCEN LIAISON.**
2. Please delete all the red placeholder language on the letter. This is an official letter that is kept by FinCEN as a permanent record of the request, and **Start typing here** should not be left on the letter. That goes for any other red letter guidance in the template. In the future they are going to send those back to the requestor to delete.
3. The requester should have a valid reason for requesting document certification. A request for certified documents for “investigative activities” will not be approved. If the subject has been indicted and there is a trial date set, that is a valid reason. If you are unsure whether your request will be approved, please contact the IRS-CI Liaison at 703-905-3521 for guidance.
4. The request needs to be specific. The request should have more in it than just a name. It should include a name, an identifier, and a specific time period. The request should not be for “the beginning of time to the present”. That request will not be approved. It should state “please provide certified copies of FinCEN form TD F 90-22 (Report of Foreign Bank and Financial Accounts), filed between 01/01/2003 and 12/31/2008 for John Doe, SSN: XXX-XX-XXXX, and Jane Doe, SSN: XXX-XX-XXXX.
5. Please provide a valid contact telephone number and the email address for the person who could be contacted for questions. FinCEN will normally contact the requestor before doing any work on the request.
6. A short synopsis of the investigation can be provided, but FinCEN does not want the request to state that it is a tax investigation. You can simply state the subject was indicted for various criminal violations and the certified documents are needed for use and presentation at trial, which is set for XX-XX-XXXX.
7. If a negative certification is needed, the same requirements will apply to those requests. Be specific and have a valid reason for requesting the certification.
8. If a prepared spreadsheet is being certified, please keep it to the necessary fields. A 50 column spreadsheet is normally not necessary. Each field must be identified, inspected, and certified. If there is a question please contact the IRS-CI Liaison at 703-905-3521.
9. The letter needs to be signed by an SSA before being emailed to FinCEN.



DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

News and Information

Additional Guidance on Requesting Certified Copies of BSA Records

Message from James F. Murphy, Assistant Director, Office of Liaison Services, FinCEN:

On January 3, 2012, FinCEN assumed the responsibility for certifying Bank Secrecy Act (BSA) records. Instructions on how to request certified records, as well as a sample request letter are posted under the “Domestic” tab, on Secure Outreach.

As we have been processing incoming requests, we have been trying to streamline our processes to ensure we are providing the best possible service to you, our requesters. After internal discussion and in consultation with some of your liaisons here at FinCEN, we felt it would be helpful to provide some additional guidance in submitting requests.

If the prosecutor has requested certified copies of BSA records to introduce as evidence in a trial, the request should be submitted *after indictment*, rather than during the investigative stage. Agencies with direct access to FinCEN’s BSA Direct Secure Outreach Portal can download copies of BSA records (or transcripts) directly from WebCBRS, or its successor, the FinCEN Query System, and all of these documents, except Suspicious Activity Reports (SARs)¹—can be used in investigative case files/reports, and/or prosecutions/indictments by local, State or Federal prosecutors, law enforcement, and/or grand juries.

Requests should be specific. Please explain exactly which records you need (i.e. FinCEN Form 107 – Currency Transaction Report; IRS/FinCEN Form 8300 - Report of Cash Payments Over \$10,000 Received in a Trade or Business), for whom (i.e. ACME Fireworks, EIN: 00-1234567), for what dates (i.e. January 3, 2011 – January 3, 2012), and for what purpose (i.e. the information sought in this request is intended to be used as evidence in trial, for violations of 31 U.S.C. Section 5324(a)(1) – failure to file a CTR, as well as other violations).

If you have a large volume of records you need certified, please consider creating a spreadsheet listing them, and request a certification of the contents of the spreadsheet (as a comprehensive list of all records contained for the entities, documents and timeframe you are requesting).

If you have questions regarding how to phrase your request in order to obtain the results you need, please feel free to reach out to a member of my staff at (703) 905-5150, toll free at (866) 326-4569, or via electronic mail at CertifiedDocs@fincen.gov.

If you have additional questions regarding the process of requesting certified copies of BSA records, please contact your agency’s liaison to FinCEN or (b) (6) via electronic mail at (b) (6).

¹ SARs may not be referenced in investigative reports or court filings, or used in court proceedings without the written authorization of FinCEN’s Chief Counsel. Unauthorized disclosure is a violation of Title 31, United States Code, Section 5318(g)(2)(A)(i).



DEPARTMENT OF THE TREASURY
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REQUESTING CERTIFIED BANK SECRECY ACT RECORDS
Federal, State and Local Law Enforcement Agencies
December, 2011

Background

All documents required to be filed by the Bank Secrecy Act (BSA) (31 U.S.C. § 5311 *et seq.*) are owned and controlled by the U.S. Department of the Treasury, through the Financial Crimes Enforcement Network (FinCEN). All BSA documents¹ are processed, and stored by FinCEN. Paper documents are transcribed, input into the FinCEN System of Record (SOR) and downloaded into the Currency and Banking Retrieval System (CBRS) database. There are no “originals” of documents that are filed in batch or electronically. The electronic files are maintained on-line for ten years, plus the current year.

Generally, certified copies are not necessary unless the document(s) is/are being introduced as evidence in a trial. Facsimile copies (or Transcripts) can be downloaded from the user interface provided by FinCEN. BSA records—with the exception of Suspicious Activity Reports (SARs)²—can be used in investigative case files/reports, and/or prosecutions/indictments by local, State or Federal prosecutors, law enforcement, and/or grand juries.

If the certification request is for a large number of BSA records, please consider whether the certified records are absolutely necessary for introduction at trial. For instance, the fact that the transactions occurred can be shown through underlying bank records maintained in the ordinary course of business, and certified copies of BSA records may not be required at all.

As an alternative to certifying a large number of BSA records, investigators may submit spreadsheets containing data downloaded from the system and FinCEN will certify the accuracy of the information displayed. A certified spreadsheet listing the transactions may be sufficient to make a point at trial.

If your request is voluminous you will need to explain the specific need for your request. Large requests require considerable lead time and resources. Although the turnaround time for such requests may vary depending upon the current workload of FinCEN employees, a minimum of **six months** must be allocated for any request greater than 50 records. In general, FinCEN will be unable to honor expedited requests (six months or less) for large-volume records-certifications.

¹ The exception is FinCEN 105, Report of International Transportation of Currency or Monetary Instrument (CMIR). CMIR forms are collected by The Department of Homeland Security, Customs and Border Protection (CBP), and FinCEN receives downloads of these forms for inclusion in the System of Record (SOR).

² SARs may not be referenced in investigative reports or court filings, or used in court proceedings without the written authorization of FinCEN's Chief Counsel. Unauthorized disclosure is a violation of Title 31, United States Code, Section 5318(g)(2)(A)(i).



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SARs shall not be used in court proceedings, except in very rare circumstances. Any use of SARs must be approved in writing by FinCEN Chief Counsel, and any requests for certified copies of SARs will not be processed unless this approval letter is attached to the request at the time of final submission. For information on how to properly use SARs, please refer to FinCEN's Re-Dissemination Guidelines dated November 28, 2007.

Requesting Documents

All requests must be submitted on your official agency letterhead, signed by the head of your agency or their authorized designee (must be a supervisory position) and contain the following information:

- In the introductory paragraph, state the violations under investigation, the statutes or violations being charged, the specific purpose for, and intended use of, the documents, and list the subject(s)' identifying information (name, SSN / EIN), as well as the timeframe you are requesting.³
- Specify which records you are requesting (i.e., Currency Transaction Reports (CTRs), Registration of Money Services Business (RMSB), Reports of Foreign Bank and Financial Account (FBARs), etc.), as well as the Document Control Number(s) (DCN)/ BSA Identification Number(s) (BSA ID) of such records. Please note that FinCEN's Office of Liaison Services does not perform basic research. You will receive certified copies of records, but you will not receive original records.
- Turnaround time is four to six weeks for up to thirty-five records.
- If you do not expect records to be found based on your own research, and the lack of records is an important aspect of your investigation, you may request a negative certification, certifying that no records were found. Negative certifications will not be provided automatically, they must be requested.
- Include your official mailing address and contact information to enable us to contact you with any questions regarding your request.
- After you receive managerial approval to submit your request, please mail the request to:

Financial Crimes Enforcement Network
ATTN: BSA Document Certifications
Analysis and Liaison Division
Office of Liaison Services
P.O. Box 39

³ If this is a Title 26, Section 6103(e) investigation, please do not state that in the request. Merely state that it is a current IRS investigation and provide an active case file number.



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Vienna, VA 22183-0039

Or send it via electronic mail to: CertifiedDocs@fincen.gov, with a copy to your agency's FinCEN liaison.

- A sample request letter is located on Secure Outreach, under the "Domestic" tab.
- Certified copies of CMIRs are obtained through Homeland Security Investigations, Immigration and Customs Enforcement.
- Your agency is required to notify FinCEN when it receives a defense subpoena or other judicial or administrative process requesting reports filed under the Bank Secrecy Act. Please contact your agency liaison, or FinCEN's Office of Chief Counsel at (703) 905-3590 immediately upon receipt of such a request. **Do not independently request or provide the information to defense counsel.**

FinCEN Office of Liaison Services Contact Information

If you have additional questions regarding this process, please contact:

- Your agency's liaison to FinCEN
- (b) (6) or the Office of Liaison Services at (703) 905-5150, or CertifiedDocs@fincen.gov.

FINCEN CERTIFIED COPIES/WITNESS REQUESTS

On January 3, 2012, FinCEN assumed the responsibility for certifying Bank Secrecy Act (BSA) records. Instructions on how to request certified records, as well as a sample request letter are posted in CASE. FinCEN is also responsible for providing an expert witness to testify to any certified BSA copies.

As FinCEN has been processing incoming requests, they have been re-evaluating the process for requesters, and are providing the following guidance.

If the prosecutor has requested certified copies of BSA records to introduce as evidence in a trial, the request should be submitted **after indictment**, rather than during the investigative stage. Agencies with direct access to BSA records can download copies of BSA records (or transcripts) directly from WebCBRS, or its successor, the FinCEN Query System. All of these documents, except Suspicious Activity Reports (SARs) can be used in investigative case files/reports, and/or prosecutions/indictments by local, State or Federal prosecutors, law enforcement, and/or grand juries. **Requests for document certification will not be completed for general investigative use.**

All requests should be specific. Please explain exactly which records you need (i.e. FinCEN Form 107 – Currency Transaction Report; IRS/FinCEN Form 8300 - Report of Cash Payments Over \$10,000 Received in a Trade or Business), for whom (i.e. ACME Fireworks, EIN: 00-1234567), for what dates (i.e. January 3, 2011 – January 3, 2012), and for what purpose (i.e. the information sought in this request is intended to be used as evidence in trial, for violations of 31 U.S.C. Section 5324(a)(1) – failure to file a CTR, as well as other violations). If you have a large volume of records you need certified, please consider creating a spreadsheet listing them, and request a certification of the contents of the spreadsheet.

There have been numerous requests during the past six months from CI Special Agents requesting certified copies, or a court witness with a short lead time provided. This lead time has been from a couple of hours to one day. This is becoming a recurring issue, specific to CI. FinCEN has been accommodating, but are becoming less enthusiastic about providing copies or a witness with just a couple of hours notice. The standard timeline is a minimum of 30 days notice. If T31 violations are involved, be sure to get your documents certified and a witness scheduled after the indictment is secured. They will certify them when a trial date is set. The court witness can also put it on their calendar. This will minimize the possibility you will not get your certified copies or a witness if needed.

If you have questions regarding how to phrase your request in order to obtain the results you need, please feel free to call (703) 905-5150, toll free at (866) 326-4569, or via electronic mail at CertifiedDocs@fincen.gov. If you have additional questions regarding the process of requesting certified copies of BSA records.