



Lapse in Appropriation Plan

The Anti-Deficiency Act, 31 U.S.C. 1341 and 1342, severely restricts the conduct of business by agencies during a lapse of appropriations.

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During a lapse in appropriation, activities identified as excepted are those where there is a reasonable and articulable connection between the function to be performed and the safety of human life or the protection of property, and some reasonable likelihood that either or both would be compromised in some significant degree by the delay in performance of the function in question. Excepted activities also include advancing national security through the conduct of foreign relations, address of foreign threats, or further related policy issues and activities financed by a resource other than annual appropriations.

Information outlined below includes FinCEN activities identified as excepted, activities identified as non-excepted, impact of a lapse in appropriation, and notification procedures.

Excepted Activities:

- Provide time-sensitive financial intelligence support to law enforcement and intelligence agencies for functions that are authorized to continue during a furlough, including Bank Secrecy Act (BSA) access, analysis, and case support for ongoing criminal and counter-terrorism investigations; U.S. sanctions designations; and 314a requests for terrorism or money laundering investigations;
- Research existing foreign financial intelligence unit (FIU) spontaneous disclosures of information and time-sensitive case requests to maintain foreign relations essential to national security and to aid criminal investigations by domestic law enforcement;
- Continue processing BSA filings from the financial industry, which are highly useful to law enforcement and national security investigations, including operation of the associated regulatory helpline and the financial institutions suspicious activity hotline;
- Support enforcement cases worked in parallel with law enforcement agencies performing functions that are authorized to continue or which are subject to a strict statute of limitations;

- Support the use and maintenance of targeted financial measures under section 311 of the USA PATRIOT Act against foreign jurisdictions and entities in support of U.S. national security and foreign policy, as well as similar authorities set forth in the notes to 31 U.S.C. § 5318A;
- Support BSA certification requests for use in law enforcement court proceedings that are authorized to continue;
- Operate and maintain computer operations to prevent loss of data; operate and maintain secure communications facilities; and maintain telecommunications, including help desk support, for excepted personnel and activities;
- Operate and maintain computer systems used by external stakeholders that continue operations during a furlough (e.g., BSA E-filing System, FinCEN's system of record, FinCEN Query, Advanced Analytics, 314a, FIR, and Egmont Secure Web);
- Conduct security monitoring and incident management of information technology resources;
- Provide legal support for all excepted activities;
- Support and engage with National Security Council staff and the interagency on pressing national security policy and interpretation issues, including those pertaining to law enforcement and the state and federal regulatory community;
- Engage with other regulators on pressing matters regarding financial institutions' BSA compliance efforts, including addressing Suspicious Activity Reports that may be related to criminal matters, including domestic or cross-border terrorism.
- Engage within FinCEN and Treasury on pressing policy issues that arise within the context of any continuing operation;
- Continue FinCEN's BSA information collection activities due to expire in accordance with the Paperwork Reduction Act (e.g., the FinCEN Suspicious Activity Report, Form 111, and the FinCEN Currency Transaction Report, Form 112);
- Operate and maintain the Beneficial Ownership (BO) IT system and support for access compliance; and
- Handle budget matters related to the lapse in appropriations, the processing of critical personnel, payroll actions, employee notifications and substitutions, and acquisition issues.

Non-Excepted Activities:

It will take approximately one-half day to complete the required actions related to shutdown of the non-excepted activities outlined below:

- Responses to new routine foreign financial intelligence unit requests to exchange information in support of foreign law enforcement investigations;
- Ongoing efforts to issue regulations and guidance/outreach to industry;
- Longer-term, non-time-sensitive projects with respect to development of strategic policy;
- Routine, non-time-sensitive BSA compliance investigations and enforcement actions;
- Development of geographic and industry assessments, comprehensive reference materials, and other strategic analysis efforts;
- Signing new data access MOUs or compliance information sharing MOUs with federal and state regulators;
- Hosting or participating in training, conferences and speaking engagements;
- Support of information technology (IT) requests not related to essential functions, including new IT development efforts and Capital Planning and Investment Control (CPIC) and other e-gov reporting;
- All activities in support of announcing and filling non-excepted vacant positions; and
- Developing or revising standard operating procedures or work methods/strategies.

Impact of lapse in appropriation (as required by OMB Circular A-11):

As of February 22, 2024, FinCEN has approximately 279 employees, 7 detailees, and 485 contractors on-board. Of the 279 employees, 98 are designated as excepted and approximately 181 are designated as non-excepted. Tasks performed by FinCEN employees to be excepted from furlough fall generally into the following categories:

- Operation and maintenance of the BO IT system and support for access compliance;
- Compliance with statute of limitations requirements in coordinated action with the Department of Justice;
- Handling of budget and personnel matters related to the lapse in appropriations;
- Maintain FinCEN operations as the United States Financial Intelligence Unit;
- Coordinate investigative efforts with foreign financial intelligence units;
- Maintain or support active law enforcement investigations;
- Provide immediate support to National Security Staff and the interagency on pressing national security policy and interpretation issues; and
- Securing equipment, property, IT systems, and records.

Forgoing these critical functions may prevent law enforcement and intelligence agencies, both domestic and international, from receiving timely information related to potential terrorism or ongoing crimes, which risks compromising safety of life and property.

Estimate of the time needed to complete shutdown activities	½ day
Total number of agency employees expected to be on-board before implementation of the plan	279
Total number of employees to be retained under the plan for each of the following categories:	
<ul style="list-style-type: none"> • Necessary to protect life and property; 	95
<ul style="list-style-type: none"> • Necessary to perform activities necessarily implied by law; 	3
<ul style="list-style-type: none"> • Necessary to discharge of the President’s constitutional duties and powers; and 	0
<ul style="list-style-type: none"> • Compensation is financed by a resource other than annual appropriations; and 	0
<ul style="list-style-type: none"> • Necessary to perform activities expressly authorized by law. 	0
Total	98

Notification Procedures

Upon official notification of a lapse in appropriation, Human Resources will send a notification to all employees providing updated Office of Personnel Management (OPM) guidance on furloughs, including information on benefits. In addition, the Management Division will provide updated information as it becomes available. Once OMB through Treasury has notified FinCEN that there is a lapse in appropriation, all normal operations will cease and all further efforts will be devoted solely to closing down operations, protecting government property, providing support to law enforcement activities, and notification of employees on leave, in travel status, or at temporary duty stations.

Employees will be advised to follow media reports and contact established FinCEN and/or Treasury Hotlines to receive information regarding the budget negotiations, and should contact the FinCEN and/or Treasury hotlines to determine when they are expected to return to work.

All leave during the furlough period is cancelled (annual, sick, court or military leave). OPM may issue supplemental guidance on leave status as required by individual situations. Employees on leave will be notified by their respective immediate supervisor as to the lapse in appropriation procedures that leave is cancelled. Employees in travel status or at temporary duty stations will be notified whether to return home due to the lapse in appropriations or to continue with their off-site business. This communication will be through emergency contact information maintained and followed by a formal notice by email.

Detailees assigned to FinCEN who are on other agencies' payrolls will discontinue work in accordance with the lapse in appropriation plans of their employing agencies. Contractors will be notified of a possible lapse in appropriation by the Bureau of the Fiscal Service.

Substitution Procedures

The Director or her designee is authorized to make substitutions of personnel needed to perform excepted activities. Employees will be contacted by telephone to perform excepted activities.