



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.

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 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 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;
- Continuation of 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 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;
- Support BSA certification requests for use in law enforcement court proceedings that are authorized to continue;
- Operation and maintenance of computer operations to prevent loss of data; and maintain telecommunications, including help desk support, for excepted personnel and activities;
- Operation and maintenance of computer systems used by external stakeholders that continue operations during a furlough (BSA E-filing System, FinCEN's system of record, FinCEN Query, Advanced Analytics, 314a, FIR, and Egmont Secure Web);
- Security monitoring and incident management of information technology resources;
- Engagement and support to National Security Staff and the Inter-agency on pressing national security policy and interpretation issues, including those pertaining to law enforcement and the state and federal regulatory community;
- Engagement within FinCEN and Treasury on pressing strategic policy issues that arise within the context of any continuing operation;
- Continuation of 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);
- Handling of 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;
- On-going 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; and
- Developing or revising standard operating procedures or work methods/strategies.

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

FinCEN has approximately 343 employees, 20 detailees, and 172 contractors on-board. Of the 343 employees, 80 are designated as excepted and approximately 263 are designated as non-excepted. If a funding lapse extends beyond 10 days the number of employees necessary to accomplish excepted activities will increase requiring more employees to be called back to work to help support law enforcement and intelligence community excepted activities.

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	343
Total number of employees to be retained under the plan for each of the following categories: <ul style="list-style-type: none"> • Compensation is financed by a resource other than annual appropriations; • Necessary to perform activities expressly authorized by law; • Necessary to perform activities necessarily implied by law; • Necessary to discharge of the President’s constitutional duties and powers; and • Necessary to protect life and property. 	80
Total	80

There are initially 80 employees retained for excepted activities. If the lapse continues beyond 10 calendar days an additional 25 employees are needed to meet the increasing backlog of excepted work due to the extended furlough. If the lapse continues beyond 20 calendar days, FinCEN will need to expand the list of excepted employees by 10-25 employees to meet the workload in excepted activities. These individuals will provide financial intelligence support to

law enforcement and intelligence communities, support priority civil enforcement action, address dissemination issues, ensure continuation of BSA filings, maintain computer operations to prevent loss of data, maintain telecommunications, and provide support to excepted functions. Forgoing these critical functions may prevent law enforcement and intelligence agencies from receiving timely information related to potential terrorism or ongoing crimes which potentially compromises safety of life and property.

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 Fiscal Services.

Substitution Procedures

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