Mortgage Loan Fraud

Loan Modification and Foreclosure Rescue Scams

Evolving Trends and Patterns in
Bank Secrecy Act Reporting

May 2010

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BACKGROUND

This report is the latest in a series of publications issued by the Financial Crimes Enforcement Network (FinCEN) addressing elements of mortgage loan fraud activities. It focuses specifically on loan modification and foreclosure rescue scams targeting financially distressed American homeowners.

This report provides FinCEN's latest research and analysis on the evolution of patterns and trends of loan modification and foreclosure rescue scams (hereinafter referred to as "loan modification/foreclosure rescue scams") derived from a review of a sample of relevant Suspicious Activity Report (SAR) filings. This report also provides information on the impact of FinCEN's April 6, 2009 Advisory FIN-2009-A001[1] (the Advisory), which provided guidance to financial institutions on filing SARs to report these activities.[2]

As a bureau of the Department of the Treasury, FinCEN administers the Bank Secrecy Act (BSA). FinCEN analysts research and analyze reports submitted under the Act. In furtherance of its key mission to protect the U.S. financial system, FinCEN networks with and supports regulatory and intelligence agencies, provides guidance and regulatory interpretations to financial institutions, and assists its law enforcement partners by providing strategic analysis, training and tactical assistance in criminal financial investigations.

FinCEN has played a key role in the fight against mortgage loan fraud. In November 2006, FinCEN produced its first dedicated mortgage loan fraud report addressing relevant SAR filings during the 10-year period from 1996 to 2006.[3] FinCEN's analytic products provide continuing statistical updates on SARs reporting mortgage loan fraud, and present data and analysis on evolving trends and patterns derived from the reported activities. FinCEN also has identified other crimes associated with mortgage loan fraud, as well as factors that could contribute to the presence of mortgage loan fraud.[4]

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1. http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a001.html.
2. The information and analysis provided herein is based solely on information provided in SAR records and is not a comprehensive review of all illegal activities in connection with mortgage loan fraud.
3. Mortgage Loan Fraud: An Industry Assessment Based upon Suspicious Activity Report Analysis, at http://www.fincen.gov/news_room/rp/reports/html/mortgage_fraud112006.html.
4. See http://www.fincen.gov/mortgagefraud.html.

On April 6, 2009, U.S. Treasury Secretary Timothy Geithner announced a government-wide initiative to combat loan modification/foreclosure rescue scams.[5] As part of this effort, FinCEN issued an Advisory to provide guidance to financial institutions on filing SARs to report loan modification/foreclosure rescue scams. The Advisory called attention to potential indicators, or red flags, of loan modification/foreclosure rescue scams and provided guidance in preparing SARs to facilitate law enforcement and regulatory investigations. Concurrently, FinCEN initiated multiple efforts to assist Federal, state and local law enforcement. Some of those efforts include:

- making case referrals to law enforcement based on information gleaned from SAR reviews;
- conducting research and analysis to identify patterns, trends or techniques used in loan modification/foreclosure rescue scams reported in the SARs filed to date; and
- commencing research and analysis of SARs filed after the Advisory through December 31, 2009, to provide an impact study determining the effect of the Advisory and any resultant changes in patterns, trends, techniques, or activities.

In addition, in the fall of 2009, FinCEN became a participant in the Administration's Financial Fraud Enforcement Task Force (FFETF),[6] an unprecedented collaborative effort to exchange information and share expertise to thwart fraud through interaction among federal, state, and local law enforcement, regulatory, financial, and consumer protection agencies.

Looking ahead, FinCEN will continue monitoring SARs reporting suspected loan modification/foreclosure rescue scams and will publish findings in future reports. The purpose of the reports is to assist SAR filers and law enforcement in recognizing these scams and protecting consumers, as well as to provide information to enable SAR filers to assist law enforcement by more quickly identifying and reporting the activities with descriptions of how the scams operate.

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5. See the Administration's loan modification and refinancing programs at www.MakingHomeAffordable.gov (as a part of the general financial stability plan, located at www.FinancialStability.gov). Consumers are also directed to the Homeowner's HOPE Hotline at 1-888-995-HOPE (4673), which offers foreclosure prevention counseling referrals approved by the U.S. Department of Housing and Urban Development (HUD), qualifying state housing finance agencies, and NeighborWorks, a national non-profit organization created by Congress. Consumers also are referred to Federal Trade Commission (FTC) resources at www.FTC.gov.

6. See http://www.fincen.gov/foreclosurerescue.html.

EXECUTIVE SUMMARY

FinCEN continues its efforts as a core participant in the fight against mortgage loan fraud with this review and analysis of BSA records, specifically SARs, filed between January 1, 2004, and December 31, 2009, that report loan modification/foreclosure rescue scams. FinCEN analysts established a sample dataset of SARs filed over the past six years. The relevant SARs in the dataset increased from 28 reports filed by depository institutions and money services businesses in 2004, to over 3,000 SARs filed in 2009 by depository institutions, money services businesses, and firms in the securities and futures industries. The SARs in the sample dataset revealed that between issuance of FinCEN's April 2009 Advisory and December 31, 2009, each category of SAR filer increased its filings by over 100 percent from the entire preceding five-year period.

Early reports of loan modification/foreclosure rescue scams identified subjects purporting to be loan modification or foreclosure rescue specialists. These subjects targeted financially troubled homeowners with promises of assistance. These scams involved the homeowners signing quit claim deeds,[7] and resulted in loss of equity in or title to their property. The scammers used straw borrowers, who misrepresented income, employment, or occupancy,[8] or provided other fraudulent information to deceive a new lender into making a new mortgage loan.

The scams described in later reports in the dataset reflect an evolution into "advance fee schemes," in which purported loan modification or foreclosure rescue specialists promised to arrange modification of a homeowner's mortgage for more favorable repayment terms. Following receipt of large advance fees, scammers rarely, if ever, provided any service. A variation of the advance fee scam involved phony debt elimination programs in which the homeowners paid advance fees and were given bogus documents, or were instructed to contact their lenders with assertions that the original mortgage debt was illegal under various laws.

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7. A quit claim deed conveys any interest one may have in a property to another party. It does not warrant that the property is free from any liens, nor does it provide other assurances found in the more common general warranty deed. In a general warranty deed, the seller guarantees that he or she owns the property and is conveying it to the buyer with a title that is free and clear, with the exception of any liens, encumbrances, or similar rights described in the title documents.
8. One condition imposed by a lender in granting a mortgage loan may be for the borrower to occupy the property which secures the loan.

Review and analysis of these SARs resulted in the following key findings:

- As the availability of mortgage funding declined, filers reported more advance fee scams than straw buyer scams.
- Reports of advance fee scams where the homeowner paid large fees without receiving services have continued, with an increase in reports of a variation of advance fee scams involving debt elimination fraud.
- In 2009, filers who had not previously reported loan modification/foreclosure rescue scam activities, such as certain money services businesses and securities and futures firms, began filing reports describing such activities. Filers reported that the subjects listed in the SARs had numerous charge-backs or returned checks on funds deposited into their accounts – ostensibly as a result of disputes with respect to fees, possibly advance fees, for service. Other filers reported their customers as potential scammers simply because their business names indicated involvement in foreclosure rescue activities.
- Since the issuance of the Advisory, FinCEN has detected several voluntary filings[9] by credit card processors on their business customers following credit card charge-backs.
- Since the issuance of the Advisory, filers in the securities and futures industries have reported their investment clients, life insurance policy holders, and others holding various securities as possible loan modification/foreclosure rescue scammers, after the firms became aware of law enforcement investigations or prosecutions against those customers.
- FinCEN detected loan modification/foreclosure rescue scams targeting homeowners who were not in danger of foreclosure, but who were fraudulently solicited with promises of lower interest rates and better loan terms available to anyone as a result of the government stimulus program. This is also an advance fee scam.

9. Voluntary SAR filings are made by financial institutions not required to file SARs under BSA reporting requirements.

This report assesses the impact of FinCEN's April 2009 Advisory, which provided indicators of loan modification/foreclosure rescue fraud, and requested that filers who become aware of this type of activity include the term "foreclosure rescue scam" in the SAR's narrative section to assist law enforcement in identifying applicable reports. It appears that the Advisory resulted in significantly increased filings. However, filers did not universally follow the suggestion to use the term "foreclosure rescue scam" in the narrative. Filers continue to use a variety of descriptive terms for loan modification/foreclosure rescue scams. This report reminds filers that including this specific term enables law enforcement to search for and identify fraudulent activity more easily when reviewing SAR information, which assists in focusing investigative resources.

METHODOLOGY

What This Report Contains:

To determine the impact of the April 2009 Advisory on subsequent SAR filings and to identify commonly-reported trends and patterns of loan modification/foreclosure rescue scams described in SARs, FinCEN analysts reviewed a sample of SARs filed by depository institutions, money services businesses, and securities and futures firms from January 1, 2004, through December 31, 2009. This period encompassed the run-up in housing markets, the subsequent economic downturn, and the more recent government efforts at market support.

Filers have used inconsistent terminology to describe mortgage loan modification/foreclosure rescue scams. Filers have used combinations and variations of the terms "loan modification" and "foreclosure rescue" scams or schemes interchangeably to describe scams perpetrated by third parties who targeted and made a profit from financially distressed homeowners in danger of losing their homes to foreclosure. In addition to terms including "mortgage," "modification," "foreclosure," and "rescue" in multiple variations, some of the many descriptive terms used by filers included "loan bailout," "white knight," "sham counseling," "renegotiation fraud," "debt relief," "debt elimination," or "redemptionist."

Using a variety of search terms indicative of mortgage loan modification/foreclosure rescue scam activities, FinCEN analysts retrieved over 3,500 relevant SARs filed between January 1, 2004, and December 31, 2009, of which approximately 3,000 were filed in 2009. Depository institutions, money services businesses, and securities and futures firms filed these SARs. FinCEN analysts further reviewed and analyzed this dataset in an effort to identify patterns or trends in the commission or reporting of these activities.

The analyses and information presented in this report should not be considered a comprehensive accounting of all SARs reporting loan modification/foreclosure rescue scam activities during this time period. However, despite the fact that inconsistent descriptive terminology by filers made it impossible to determine an exact count of relevant SARs, the sheer volume of information provided in this dataset enabled FinCEN analysts to provide a qualitative and reliable analysis of SARs reporting how con artists perpetrate these scams. Analysts reviewed the narratives of about half

of 3,375 depository institution Suspicious Activity Report (SAR-DI) filings in their entirety, but otherwise included all of the SAR-DIs in compiling statistics on responses to specific form fields. Analysts also read and analyzed in their entirety the 265 Suspicious Activity Report by Money Services Business (SAR-MSB) and 26 Suspicious Activity Report by Securities and Futures Industries (SAR-SF) filings.[10]

What This Report Does Not Contain:

Due to data limitations, this analysis did not attempt to identify geographic trends. Inconsistent terminology hampered efforts to identify all relevant SARs with a sufficient degree of confidence. This study focused on a limited sample of reports identified through term searches, using terms often found in descriptions of these activities. Therefore, the information contained in this report should not be construed as a statistically accurate analysis of all loan modification/foreclosure rescue scam activities contained in BSA reports.

10. http://www.fincen.gov/forms/bsa_forms/index.html#SAR

RESEARCH AND ANALYSIS

A. Overview of Loan Modification/Foreclosure Rescue Scams

During the past decade, large numbers of financially distressed Americans facing foreclosure became victims of loan modification/foreclosure rescue scams that stripped them of advance fees, home equity, and sometimes even title to their property. The SARs identified and reviewed in this analysis contained elements and characteristics of foreclosure rescue scams previously identified by FinCEN and other law enforcement, regulatory, and consumer protection agencies at both the state and federal levels. SARs reported that most scams began with a phony loan modification/foreclosure rescue specialist identifying financially strapped homeowners and approaching them with false guarantees to avoid foreclosure through a loan modification or alternative plan. Loan modification/foreclosure rescue scam activities as reported in the SARs generally fell within two categories.

1. Use of Straw Borrowers/Equity Skimming/Property Theft

Typically, the filers reported that a subject would tell a homeowner that if the homeowner signed a quit claim deed for the benefit of the rescuer,[11] the mortgage would be paid, and the homeowner could pay rent and continue living in the house with the promise that the property would be deeded back when the homeowner was in a better financial position. Instead, the "rescuer" often recorded the quit claim deed and then sold the property. The purchasers were often straw buyers who misrepresented income, employment, or occupancy, or submitted other fraudulent information to deceive a new lender. Other activities reported in the SARs included appraisal fraud, creating phony investment scams, fraudulently orchestrating short sales of properties, and flipping. Parties involved in those scams included realtors, loan originators, lenders, appraisers, title companies, settlement agents, and borrowers, among others.

11. SARs also reported that some homeowners were tricked into signing quit claim deeds.

2. Advance Fee Scams

Filers reported that con artists promised homeowners that they would save their homes, but instead simply raked in profits by requiring homeowners to pay an advance fee for services and never providing any services. The scammers contacted financially distressed homeowners with promises to negotiate a loan modification to prevent foreclosure. The scammers insisted upon payment of an advance fee, sometimes totaling thousands of dollars. They frequently cautioned the unsuspecting homeowner against telling anybody about the arrangement, particularly the lender, to "avoid jeopardizing the negotiations." The scammers then failed to contact the lender to modify the loan, and the homeowner's loan continued toward foreclosure.

Another variation found in SARs reporting advance fee scams involved debt elimination schemes.[12] SAR filers reported that the scammers, in return for payment of an advance fee, advised homeowners that their debts could be eliminated because they were illegal. Financial institutions described two variations of these schemes.

- The *Redemptionist Theory* scam, in which the homeowner is informed that his mortgage or other debt can be renounced based on the spurious argument that the Federal Government assumes responsibility. A scammer provides the homeowner with numerous, complicated or confusing forms, as well as with legal declarations to send to the lender.
- The *Freeman in Nature* scam is based on the specious argument that a loan was illegally made and the borrower has no duty to repay it. This argument relies on unreasonable interpretations of federal law, the Uniform Commercial Code (UCC), or real estate law,[13] and often involves jeopardizing a lender's loan security by the filing of fraudulent lien releases among county land records.

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12. For more information regarding debt elimination schemes, see FinCEN's November 2006 report, *Mortgage Loan Fraud: An Industry Assessment Based upon Suspicious Activity Report Analysis*, p. 16, at http://www.fincen.gov/news_room/rp/reports/html/mortgage_fraud112006.html , and FinCEN's April 2008 report, *Mortgage Loan Fraud: An Update of Trends Based Upon an Analysis of Suspicious Activity Reports*, p.14, at http://www.fincen.gov/news_room/rp/files/MortgageLoanFraudSARAssessment.pdf.
13. http://www.law.cornell.edu/ucc/ucc.table.html

B. Filing Dates Are Not Representative of Suspicious Activity Dates

As FinCEN noted in previous reports, dates of SAR filings are not necessarily indicative of dates of underlying suspicious activities. Filers did not report loan modification/foreclosure rescue scams in significant volume until 2009. For a variety of reasons, many reported scams remained undetected long after they occurred, and multiple relevant SARs in this review were filed after – in some cases years after – the suspicious activity occurred. As recently as April 2008, loan modification/foreclosure rescue scam activities were determined not to have been a significant part of the total sample of SARs identified and reviewed for an updated FinCEN report on mortgage loan fraud.[14] However, FinCEN pointed out in that report that the few mortgage rescue schemes that had been identified and reviewed in that analysis were "notably elaborate and organized."

Many filers of the SARs reviewed in this current study became aware of the activities only subsequent to law enforcement activities, such as federal investigations or indictments, or state attorneys general actions on behalf of defrauded homeowners. In many instances, the legal actions enabled the filers to provide accurate descriptions of how specific scams operated. Reports filed more recently indicated that filers better and more quickly recognized elements of loan modification/foreclosure rescue scams.

C. SARs Filed Between January 1, 2004, and December 31, 2009

Reports of foreclosure rescue scams increased substantially in the last eight months of calendar year 2009. The sample of pertinent SARs retrieved in this research and analysis increased from approximately 28 SARs filed by depository institutions and money services businesses in 2004, the first year examined in this analysis, to over 3,000 filed in 2009 by multiple financial institution filers, including depository institutions, money services businesses, and securities and futures firms. Payment service providers and other filers reported activities such as merchant fraud conducted by customers that appeared to provide services relating to loan modification or foreclosure rescue. Some depository institutions and money services businesses filed SARs with respect to customers simply because the customer's name indicated that it may have been running a loan modification/foreclosure rescue service.

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14. *Mortgage Loan Fraud: An Update of Trends Based Upon an Analysis of Suspicious Activity Reports* (April 2008) relating to SARs filed during the period between April 2006 and March 2007. See http://www.fincen.gov/news_room/rp/files/MortgageLoanFraudSARAssessment.pdf.

FinCEN analysts reviewed the narratives of about half of the 3,375 SAR-DIs, but otherwise included all of the SAR-DIs in compiling statistics on responses to specific form fields. Analysts also reviewed in their entirety filings by money services businesses and securities and futures firms. Table 1 provides the numbers of SARs retrieved and reviewed in this analysis.

Table 1

	2004	*2005*	*2006*	*2007*	*2008*	*2009*
SAR-DI	15	33	37	177	226 (Reviewed 140 Narratives)	2,887 (Reviewed 1,479 Narratives)
SAR-MSB	13	8	13	19	34	178
SAR-SF	0	0	0	0	1	25

Depository Institution SARs

Fewer than 500 SAR-DI filings met the search criteria of variations of "loan modification" and "foreclosure rescue" scams or schemes in the five-year period between 2004 and 2008. The majority of the total 3,375 SAR-DIs identified in this research were filed after the issuance of FinCEN's Advisory (2,799 SARs, or 83 percent). Filers consistently reported mortgage loan fraud as the predominant suspicious activity characterization. Table 2 shows the most frequently reported types of suspicious activity.

Table 2

Characterization of Suspicious Activity (Field 35)	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Mortgage Loan Fraud	15	29	29	161	202	1,487
False Statement	9	3	7	46	64	865
Other	2	2	0	7	19	268
BSA/Structuring/ Money Laundering	0	2	3	5	9	180

The most prevalent activities described in SARs filed during these years included:

- Use of straw borrowers.

- Sellers remaining on the property by renting it back from the scammers.
- Equity skimming[15] or property theft.
- Misrepresentations in income, employment or occupancy/false statements.[16]
- Advance fee scams.
- Debt elimination scams.

Table 3 depicts the yearly breakdown and evolution of activities reported by SAR-DI filers in this dataset.

Table 3

Activity Description	2004	2005	2006	2007	2008	2009
Straw Borrower	10	11	10	44	44	88
Misrepresentations/Fraud/ False Statements	10	7	22	53	47	739
Equity or Property Theft/ Seller Rents Back	6	2	13	19	33	36
Advance Fee Scam	0	0	0	0	6	68
Debt Elimination Scam	0	0	0	0	3	76

Reports of all types of activities increased substantially after issuance of the Advisory. The sample dataset indicated that reports of advance fee/debt elimination scam filings surpassed straw borrower/equity theft scams. Some filers reported their customers' activities simply because the customer's name indicated a foreclosure rescue service operation. Voluntary filings by credit card processors using the SAR-DI form are particularly noteworthy in this regard. In addition, FinCEN identified an increasing number of reports involving debt elimination scams, as well as loan modification scams, targeting homeowners who were not in danger of foreclosure. These schemes fraudulently offered promises of lower interest rates and fees on new mortgages through the Federal Government's housing stimulus program.

15. According to the U.S. Department of Housing and Urban Development (HUD), equity skimming occurs when the homeowner is approached and offered an opportunity to get out of financial trouble by the promise to pay off the mortgage or to receive a sum of money when the property is sold. The property is then deeded from the homeowner. The new owner may charge the previous owner rent and then fail to make the mortgage payment thereby causing the property to go into foreclosure.
16. Ibid., p. 3.

Money Services Businesses SARs

Filers submitted fewer than 100 SAR-MSBs meeting the search criteria in the five-year period 2004–2008, but filed nearly 200 in 2009. Overall, money services business filers reported money laundering and structuring as the most frequent type of suspicious activity. The same major payment service provider filed over half of the 2009 SAR-MSBs, all reporting merchant fraud activities. These reports described the payment service provider's clients receiving funds into their accounts, often followed by charge-backs, for possible foreclosure rescue services. The activities reported most frequently in the 2009 SAR-MSBs included:

- Multiple, structured, or sequential money orders sent to or received by a loan modification or foreclosure rescue business, or sent for the purpose of avoiding foreclosure.
- Subjects telling filers that the method of structuring multiple money orders was required by the recipients.
- Subjects using their Web sites to direct incoming payments through the money services business.
- Potential loan modification or foreclosure rescue activities identified as "possibly illegal," or perpetrated by subjects who did not appear on lists of government-approved credit counselors or Department of Housing and Urban Development (HUD)-approved housing agencies.
- Merchant fraud activities, and in particular, multiple charge-backs of credits posted to the accounts of the customer's merchants.[17] As one filer explained, this represented efforts to "stop payment" by foreclosure rescue scam victims who paid advance fees but received no service.

Securities and Futures Industries SARs

The search terms utilized in this analysis returned one SAR-SF filed in the period 2004-2008 by a securities and futures firm (reported in 2008). Twenty-five SAR-SFs were filed in 2009, all but two following issuance of the Advisory. Filers included investment and securities firms that reported activities and transactions conducted

17. Charge-backs, stop payment orders and returned or insufficient funds for credit deposits to filer's customer accounts were also reported in SAR-DI filings by depository institutions and credit card companies.

by their investment clients after learning the clients had been indicted or prosecuted for foreclosure rescue scam activities. Several life insurance companies filed SAR-SFs on policyholders. The reported suspicious activities included money laundering and structuring, market manipulation, improper wire transfer activities, and check fraud.

Filings by securities and futures firms relevant to this analysis included:

- A securities broker-dealer reported three investment customers who had been indicted for loan modification and foreclosure rescue scams.
- A financial investment company and its life insurance subsidiary both filed SAR-SFs on the same life insurance policy holder after learning that he had been indicted for loan modification and foreclosure rescue fraud.
- A mortgage servicing company affiliate of a financial holding company that also owned securities affiliates filed several SAR-SFs after its mortgage customers had been contacted by individuals purporting to represent the filer, offering fraudulent loan modifications for lower interest rates.

D. Other Observations

1. Targeting of Elderly Homeowners

In previous publications, FinCEN identified foreclosure rescue scams targeting elderly homeowners.[18] Numerous depository institutions filed SARs involving elderly victims. There have been many well publicized legal actions against scammers who targeted elderly homeowners in danger of foreclosure, conned them into signing quit claim deeds, presented straw borrowers, and then stole their equity and title to the property. Reports of targeted elderly victims continued in 2009, although an increasing number of reports referenced scenarios involving advance fee and debt elimination scams in comparison with scenarios involving straw buyers. In addition, several filers more recently reported elderly victims who were not in danger of foreclosure, but who were contacted by potential scammers offering reduced mortgage interest rates because of the availability of government stimulus funding. The applicable SARs in this dataset suggested that fraud targeting the elderly continues.

18. See footnotes 3 and 12.

2. Making Homes Affordable Program

On October 14, 2009, FinCEN issued Advisory FIN 2009 A006[19] providing guidance to financial institutions filing SARs on activities potentially related to the Federal Government's Troubled Asset Relief Program (TARP). FinCEN requested that filers who suspected possible criminal activity involving TARP programs assist law enforcement by including the term "SIGTARP" in the narrative portion of the SAR, along with all pertinent information for each suspected party.

As explained in the October Advisory, the Special Inspector General for TARP (SIGTARP) identified seven TARP-related programs, which financial institutions may recognize in the normal course of doing business. One of those programs is the Home Affordable Modification Program (HAMP), wherein the Treasury Department pays incentives to servicers and mortgagors in mortgage modifications.

In October 2009, following the Advisory, one loan servicing company filed approximately 30 SARs reporting potential money laundering activities in connection with the misrepresentations or false statements contained in applications for HAMP loan modifications.

E. Impact of FinCEN's April 2009 Advisory

As discussed throughout this report, a striking increase in loan modification/foreclosure rescue scam SARs occurred after FinCEN's April 2009 Advisory offering guidance and red flags for loan modification and foreclosure rescue scams. This is an indication that since that time, filers are better equipped to identify or question activities involving foreclosure rescue scam activities.

All but 88 of the 2,887 SAR-DIs filed in 2009 were filed after the Advisory. Pertinent SAR-MSBs increased from seven filed in 2009 prior to the Advisory, to 171 filed subsequently. Likewise, filings by securities and futures firms increased from three SAR-SFs filed prior to the Advisory to over 20 filed subsequently. After the Advisory, each category of filer appearing in the sample dataset increased its reporting by more than 100 percent over the entire preceding five-year period.

19. See http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-a006.pdf.

Table 4 shows the change in relevant elements found in narratives of SAR-DIs reporting loan modification/foreclosure rescue scam activities between the first quarter of 2009 and the following three quarters (roughly the period after FinCEN's April 6, 2009 Advisory.)

Table 4

	PRE ADVISORY 1/1/2009 to 3/31/2009	***POST ADVISORY 4/1/2009 to12/31/2009***
Approximate Total SARs Filed	88	2,799
Total Narratives Reviewed in Full	88	1,391
Straw Borrower	13	75*
False Statement/Misrepresentations	37	702*
Customer Account Holder Runs Foreclosure Rescue Company	7	109*
Equity/Property Theft/Seller Rents Back	9	27*
Advance Fee Scam	8	60*
Debt Elimination Scams	2	74*

**Category totals are based on the SARs reviewed in full and not the total identified.*

While it is impossible to determine how many of the SARs in this dataset were filed as a direct result of FinCEN's guidance, the vast difference in filings in the months before and after the Advisory suggests that the Advisory played a significant role in generating increased filings and information available to law enforcement. The following factors support that conclusion.

- Only 88 SAR-DIs were filed in 2009 prior to the Advisory, roughly the same period as the first quarter of the calendar year. If filings continued at the same rate as the first quarter for the remainder of 2009, FinCEN analysts would have expected a total of approximately 352 (88 x 4) SARs filed during the calendar year, a slight increase over the 226 filings in 2008. However, FinCEN analysts identified 2,799 SAR-DIs filed after the Advisory.
- A wider variety of filers submitted SARs in the months following the Advisory, including additional money services business filers, credit card processors, and both a life insurance company and its parent company.
- Money services business filers increasingly reported their merchant clients for merchant fraud, an activity not identified with foreclosure rescue scams before the Advisory.

- After the Advisory, several SAR-DIs were voluntarily filed by credit card processors who suspected their merchant clients of operating loan modification companies.
- In addition to charge-backs to deposits in merchant clients' MSB accounts, filers reported charge-backs and returned or insufficient funds for credit deposits to filers' customer accounts. SARs filed before the Advisory did not describe these activities. The filers suggested their customers may have been engaged in "illegal activities" because account names indicated they operated a loan modification or foreclosure rescue company. The Advisory directly addressed identification of these activities in connection with foreclosure rescue scams.
- Several money services business filers further reported they had checked into the legality of their customers' operations by stating that the customer's name did not appear on lists of government-approved credit counselors or HUD-approved housing agencies, which the Advisory also directly addressed.

The FinCEN Advisory discussed the lack of consistency in descriptive terms identifying loan modification and foreclosure rescue scams and requested filers to use the term "foreclosure rescue scam" in the SAR narratives reporting such activities. Approximately 186 of the 2,799 SAR-DIs[20] filed after the Advisory used the term as requested. Filers of 47 post-advisory SARs specifically stated they were making the filing pursuant to the Advisory. However, only 29 used the term as requested. Filers continued to use multiple descriptive terms for these scams.

Filers are reminded that including the term "foreclosure rescue scam" in the narratives of pertinent reports enables law enforcement to more easily search for and identify fraudulent activity when reviewing SAR information, further assisting in focusing investigative resources. At this time, those researching SARs possibly reporting foreclosure rescue scams should continue to use a variety of search terms in order to return the most comprehensive results

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20. The search to determine whether filers were using the term "foreclosure rescue scam" was conducted on all identified post-advisory SAR-DIs and was not limited to SAR-DIs that were reviewed in full for the analysis presented in this report.

www.FinCEN.gov