



# *Mortgage Loan Fraud Update*

Suspicious Activity Report Filings  
from July 1-September 30, 2009



February 2010



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# *Introduction*

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**T**his update to FinCEN's prior Mortgage Loan Fraud (MLF) studies looks at filings during the 3<sup>rd</sup> quarter of Calendar Year (CY) 2009 and provides new information on reporting activities and geographic locations. Illustrations provide rankings by state and metropolitan areas for subject locations reported during this period. In addition, we provide information on the dollar values associated with the activity amounts reported in filings.

# Overall Filings

In the 3<sup>rd</sup> quarter 2009, depository institution filers submitted 15,697 mortgage loan fraud Suspicious Activity Reports<sup>1</sup> (MLF SARs), a 7.5 percent increase over the same period in 2008. However, the increase in filings is not indicative of an overall increase in current mortgage loan fraud activities.<sup>2</sup> In 75 percent of MLF SARs (Table 1), filers reported activities older than a year; more than half indicated activities that occurred over two years prior to the reporting date.<sup>3</sup> Foreclosures, repurchases, insurance investigations, and enforcement actions appear in SAR narratives as contributing factors to the discovery of older suspicious activities.<sup>4</sup> Further, file reviews conducted by servicers prior to loan modification approval have led to the discovery of misrepresentations in older loans (see below, *Activities*).

<b>Table 1: Mortgage Loan Fraud SARs Time Elapsed from Activity Date to Reporting Date</b>	
<i>July – September 2009</i>	
<b>Time between Activity and Reporting Dates</b>	<b>MLF SARs</b>
0 - 90 days	13%
91 - 180 days	6%
180 days - 1 year	6%
1 - 2 years	19%
2 -5 years	54%
> 5 years	2%

1. For purposes of this report, the terms “mortgage loan fraud SARs” or “MLF SARs” refer only to the Suspicious Activity Report filed by depository institutions (TD F 90-22.47). Related activities reported on the Suspicious Activity Report by Money Services Business (FinCEN 109) and Suspicious Activity Report by Securities and Futures Industries (FinCEN 101) are not included in table or map totals.
2. The volume of SAR filings for the given period does not directly correlate to the number or timing of suspected fraudulent incidents, as explained in FinCEN’s March 2009 report, *Mortgage Loan Fraud Connections with Other Financial Crime: An Evaluation of Suspicious Activity Reports Filed by Money Services Businesses, Securities, and Futures Firms, Insurance Companies and Casinos*, [http://www.fincen.gov/news\\_room/rp/files/mortgage\\_fraud.pdf](http://www.fincen.gov/news_room/rp/files/mortgage_fraud.pdf).
3. Calculations for Table 1 do not include MLF SARs with omitted filing or activity dates.
4. For a fuller discussion, see the February 2009 FinCEN report *Filing Trends in Mortgage Loan Fraud* found at [http://www.fincen.gov/news\\_room/nr/pdf/20090225a.pdf](http://www.fincen.gov/news_room/nr/pdf/20090225a.pdf).

In 84 percent of MLF SARs, filers indicated suspicious activity amounts under \$500,000; 5 percent reflected activities exceeding \$1 million (Table 2). Only a quarter of filers indicated loss amounts, and less than 1 percent reported recovery amounts. These low figures are accounted for by complex recovery processes, changing markets, and insufficient clarity pertaining to the suspicious activities.

<b>Table 2: Mortgage Loan Fraud SARs - Reported Activity Amounts</b> <i>July - September 2009</i> <i>(Rounded to nearest percent)</i>							
	<b>&lt;\$100K</b>	<b>\$100K - \$250K</b>	<b>\$250K - \$500K</b>	<b>\$500K - \$1M</b>	<b>\$1M - \$2M</b>	<b>&gt;\$2M</b>	<b>Not indicated</b>
<b>SARs indicating suspicious activity amounts</b>	2,660 (17%)	5,498 (35%)	5,005 (32%)	1,639 (10%)	430 (3%)	294 (2%)	171 (1%)
<b>SARs indicating loss amounts</b>	1,880 (12%)	1,206 (8%)	509 (3%)	147 (1%)	36 <1%	26 <1%	11,893 (76%)
<b>SARs indicating recovered amounts</b>	22	7	6	2	2	1	15,657

# Subjects

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Filers most frequently reported borrowers as subjects, relating subject descriptions as 'Borrower' or 'Customer' in a combined 57 percent of MLF SARs. Table 3 provides a breakdown of customer relations to the filer.

<b>Table 3: Mortgage Loan Fraud SAR Subjects Relation to Reporting Institution</b>				
<i>July - September 2009</i>				
<b>Relationship to Filer</b>	<b>MLF SAR Subjects</b>		<b>Relationship to Filer</b>	<b>MLF SAR Subjects</b>
Borrower	13,296		Attorney	95
Broker	2,682		Officer	44
Customer	2,340		Accountant	24
Appraiser	1,638		Director	18
Employee	217		Shareholder	4
Agent	156		Other <sup>5</sup>	6,955

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5. In the previous quarter (April to June 2009), filers referenced real estate professionals – including loan officers, mortgage brokers, realtors, and employees thereof – in more than half of the “other” subject descriptions. For a more detailed breakdown of “other” subject descriptions, see *The SAR Activity Review - Trends, Tips & Issues* [Issue 16, October 2009], Section Two, “Mortgage Loan Fraud Update” found at [http://www.fincen.gov/news\\_room/rp/files/sar\\_tti\\_16.pdf](http://www.fincen.gov/news_room/rp/files/sar_tti_16.pdf), and *FinCEN Mortgage Loan Fraud Assessment* (November 2006) at [http://www.fincen.gov/news\\_room/rp/reports/html/mortgage\\_fraud112006.html](http://www.fincen.gov/news_room/rp/reports/html/mortgage_fraud112006.html).

# Subject Locations

By state, subjects from California and Florida represented a combined 42 percent of reported subjects.<sup>6</sup> The top 10 metropolitan areas included 40 percent of all subjects. Tables 4 and 5 and subsequent maps provide a breakdown of top state and metropolitan locations for MLF SAR subjects.

<b>Table 4: Mortgage Loan Fraud SAR Subjects by State Location</b>					
<i>July - September 2009</i>					
<b>Subject's State</b>	<b>MLF SAR Subjects</b>	<b>Subject's State</b>	<b>MLF SAR Subjects</b>	<b>Subject's State</b>	<b>MLF SAR Subjects</b>
CA	6,444	PA	377	HI	77
FL	5,077	UT	332	MS	69
NY	1,614	MO	306	NM	67
IL	1,441	MA	304	DC	58
GA	1,136	TN	286	KS	52
AZ	997	IN	281	DE	48
MI	965	OR	272	NH	43
TX	876	WI	224	IA	42
NJ	724	SC	210	MT	36
VA	607	CT	152	ME	23
NV	595	LA	146	NE	20
MN	593	AL	144	WV	17
MD	563	ID	118	WY	15
WA	559	AR	97	SD	13
OH	455	RI	91	AK	11
CO	407	OK	90	ND	8
NC	380	KY	78	VT	6

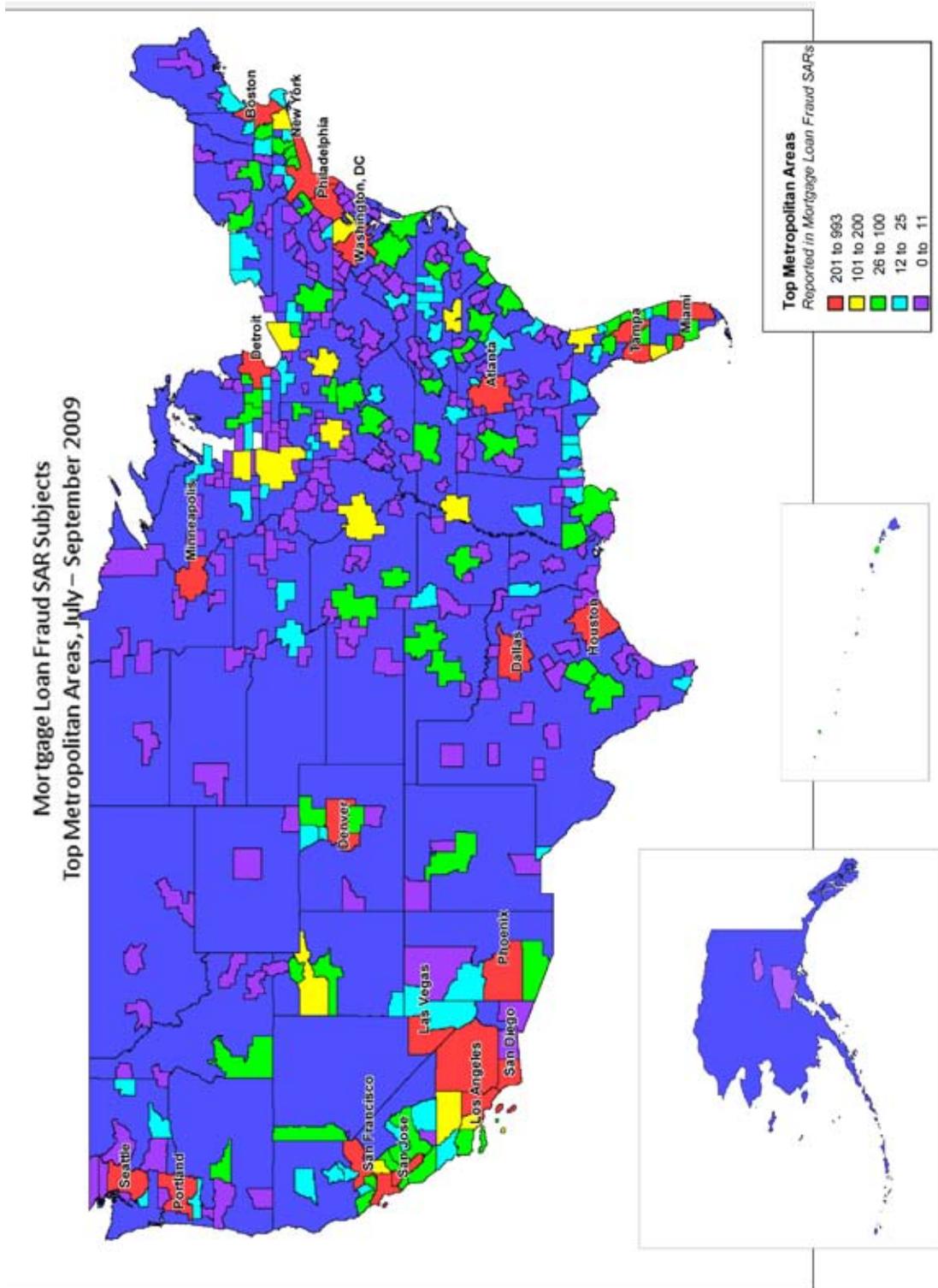
6. Subject totals in this report represent total name variations without consideration for alternate spellings, aliases, identically named subjects, or those with multiple listed addresses. Subjects reported without listed addresses are not counted in geographically delineated totals. These factors cause minor statistical variances appearing in the geographically delineated tables contained in this report.

Table 5: Mortgage Loan Fraud SAR Subjects Top Metropolitan Area Locations July - September 2009											
Rank	Metropolitan Area	State	MLF SAR Subjects	Rank	Metropolitan Area	State	MLF SAR Subjects	Rank	Metropolitan Area	State	MLF SAR Subjects
1	Miami-Fort Lauderdale-Pompano Beach	FL	2,672	18	Sacramento-Arden-Arcade-Roseville	CA	363	35	Milwaukee-Waukesha-West Allis	WI	118
2	Los Angeles-Long Beach-Santa Ana	CA	2,549	19	San Jose-Sunnyvale-Santa Clara	CA	360	36	Columbus	OH	115
3	New York-Northern New Jersey-Long Island	NY-NJ-PA	2,068	20	Philadelphia-Camden-Wilmington	PA-NJ-DE-MD	308	37	Stockton	CA	111
4	Chicago-Naperville-Joliet	IL-IN-WI	1,367	21	Houston-Sugar Land-Baytown	TX	287	38	Oxnard-Thousand Oaks-Ventura	CA	105
5	Atlanta-Sandy Springs-Marietta	GA	993	22	Denver-Aurora-Broomfield	CO	242	39	Bradenton-Sarasota-Venice	FL	105
6	Riverside-San Bernardino-Ontario	CA	857	23	Portland-Vancouver-Beaverton	OR-WA	234	40	Memphis	TN-MS-AR	100
7	Phoenix-Mesa-Scottsdale	AZ	856	24	Cape Coral-Fort Myers	FL	233	41	Modesto	CA	98
8	Washington-Arlington-Alexandria	DC-VA-MD-WV	809	25	Boston-Cambridge-Quincy	MA-NH	232	42	Fresno	CA	89

Financial Crimes Enforcement Network

Rank	Metropolitan Area	State	MLF SAR Subjects	Rank	Metropolitan Area	State	MLF SAR Subjects	Rank	Metropolitan Area	State	MLF SAR Subjects
9	San Francisco-Oakland-Fremont	CA	773	26	Baltimore-Towson	MD	193	43	Kansas City	MO-KS	88
10	Orlando-Kissimmee	FL	752	27	St. Louis	MO-IL	187	44	Boise City-Nampa	ID	87
11	Detroit-Warren-Livonia	MI	737	28	Salt Lake City	UT	171	45	Virginia Beach-Norfolk-Newport News	VA-NC	87
12	Tampa-St. Petersburg-Clearwater	FL	583	29	Indianapolis-Carmel	IN	150	46	Nashville-Davidson-Murfreesboro-Franklin	TN	85
13	Minneapolis-St. Paul-Bloomington	MN-WI	564	30	Bakersfield	CA	133	47	Cincinnati-Middletown	OH-KY-IN	84
14	San Diego-Carlsbad-San Marcos	CA	521	31	Jacksonville	FL	129	48	Naples-Marco Island	FL	79
15	Las Vegas-Paradise	NV	520	32	Charlotte-Gastonia-Concord	NC-SC	119	49	Salinas	CA	77
16	Dallas-Fort Worth-Arlington	TX	382	33	Cleveland-Elyria-Mentor	OH	119	50	Tucson	AZ	74
17	Seattle-Tacoma-Bellevue	WA	379	34	Providence-New Bedford-Fall River	RI-MA	119	51	Provo-Orem	UT	72





# Reported Activities

Filers indicated secondary activities in a third of MLF SARs, with 'False Statement' as the most frequently reported category (Table 6.)

<b>Table 6: Mortgage Loan Fraud SARs Secondary Activities</b>				
<i>July – September 2009</i>				
<b>MLF SARs</b>	<b>Activity</b>		<b>MLF SARs</b>	<b>Activity</b>
15,697	Mortgage loan fraud		12	Counterfeit check
4,144	False statement		8	Counterfeit instrument (other)
344	Other <sup>7</sup>		8	Credit card fraud
327	Identity theft		6	Check kiting
104	Consumer loan fraud		5	Mysterious disappearance
103	BSA/Structuring/Money laundering		2	Counterfeit credit/debit card
65	Wire transfer fraud		2	Bribery/Gratuity
62	Misuse of position or self-dealing		1	Debit card fraud
29	Commercial loan fraud		1	Terrorist financing
26	Defalcation/embezzlement		1	Computer intrusion
22	Check fraud			

7. The catchall "other" category for reported activity that does not fall into one of the specific categories on the depository institution SAR form was, statistically speaking, the second most indicated on the filings for the reporting period. For a fuller account of "Other" activity descriptions, see *The SAR Activity Review - Trends, Tips & Issues* [Issue 16, October 2009], Section Two "Mortgage Loan Fraud Update" found at [http://www.fincen.gov/news\\_room/rp/files/sar\\_tti\\_16.pdf](http://www.fincen.gov/news_room/rp/files/sar_tti_16.pdf).

## ***Loan Modification/Foreclosure Rescue Frauds***

On April 6, 2009, FinCEN issued an advisory<sup>8</sup> to help financial institutions spot questionable loan modification schemes and report them to law enforcement. The advisory provides “red flags” for financial institutions that may indicate a loan modification fraud or foreclosure rescue scam and warrant the filing of a SAR. A key request in the advisory is that financial institutions include the term “foreclosure rescue scam” in the narrative sections of all relevant SARs.

Subsequent to the advisory, FinCEN has received hundreds of pertinent SARs describing potential loan modification frauds and foreclosure rescue scams. In addition to depository institution reports, filers including money services businesses and securities and futures industries have provided information on related activities.<sup>9</sup>

While dozens of filers have specifically referenced the advisory, many have not used the specific term “foreclosure rescue scam.” Filers are reminded that including this term enables law enforcement to more easily search for and identify fraudulent activity when reviewing SAR information, which assists in focusing investigative resources.

Filers including mortgage lenders, servicers, and originators have commonly reported suspicious activity surrounding loan modifications such as occupancy misrepresentation, social security number discrepancies, and altered or forged documentation. Subjects of these reports primarily have been borrowers, though filers also reported industry insiders as subjects, including loan officers, underwriters, and purported loan modification agents. SARs involving loan modifications described potential fraud in either the application for the loan modification, or in the older loan which came under review subsequent to the modification application.<sup>10</sup>

An increasing number of filers submitted SARs noting suspicious activity in connection to actual or purported foreclosure rescue specialists. Credit card processors noted multiple transaction charge-backs in accounts held by clients later determined to be loan modification or foreclosure rescue specialists, after homeowners complained

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8. [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2009-a001.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a001.html).

9. As noted in footnote 1, the reports filed by these institutions, the Suspicious Activity Report by Money Services Business (FinCEN 109) and Suspicious Activity Report by Securities and Futures Industries (FinCEN 101), are not included in “MLF SAR” totals elsewhere in this report.

10. More information about FinCEN’s efforts as part of the Federal-State partnership to combat loan modification fraud schemes can be found on the FinCEN website at <http://www.fincen.gov/forclousurerescue.html>.

that the specialist failed to deliver services. Money transfer services and depository institutions also noted suspicious activities by clients associated with foreclosure rescue service providers.

Within SARs referencing loan modification or foreclosure specialists, filers most commonly reported two types of schemes. First, scammers conned homeowners into signing quit-claim deeds to their properties, then sold homes from under the former owners to straw borrowers; the homeowners subsequently received eviction notices. Second, other scammers falsely claimed affiliations with lenders to convince distressed home-owners to pay large advance fees for modification services, but failed to take any action on the homeowners' behalf.

Other activities included debt elimination schemes where scammers provided homeowners with documentation containing spurious interpretations of Federal laws to contest mortgages, falsely claiming the loans were "illegal." In addition, filers noted purported loan modification specialists targeting homeowners not in danger of foreclosure, but luring victims by promises of access to funds from Federal programs.

# Filers

Filers indicating the Federal Depository Insurance Corporation (FDIC) as their primary Federal regulator comprised 34 percent of all MLF SAR filers.<sup>11</sup> With respect to the volume of filings, institutions indicating the Office of the Comptroller of the Currency (OCC) as the primary regulator submitted 11,465 MLF SARs (73 percent).

<b>Table 7: Mortgage Loan Fraud SARs Primary Federal Regulators</b>		
<i>July – September 2009</i>		
<b>Primary Regulator</b>	<b>MLF SARs Indicating Primary Regulator</b>	<b>Filers of MLF SARs Supervised by Primary Regulator</b>
OCC	73%	79 (18%)
Federal Reserve	13%	63 (14%)
OTS	9%	87 (20%)
FDIC	4%	153 (34%)
NCUA	1%	64 (14%)
FHFA <sup>12</sup>	<1%	—

11. Filer counts are based on unique filer Employer Identification Numbers (EINs) reported in the SARs. As some businesses may use the same EIN for multiple branches or process all SARs at centralized locations for the entire organization, the total does not represent individual branch locations involved in detecting suspicious activities.

12. The Federal Housing Finance Agency (FHFA), which is the Federal regulator for Fannie Mae and Freddie Mac, has established a process for the companies to report possible mortgage fraud to FHFA, which in turn files depository institution SARs with FinCEN.

# *Conclusion*

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**F**inCEN will continue to monitor MLF SARs and report trends and issues in addition to the ongoing work in support of law enforcement investigations and prosecutions. We also will undertake a more in-depth look at some of the activity trends and subject roles reported in this publication.



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