



Friday, August 23, 2013

Mortgage Fraud: Data Confirms Spike in 2006-2007

The Financial Crimes Enforcement Network (FinCEN) has released an analysis of **Mortgage Fraud SAR Filings in Calendar Year 2012**. The report was issued on August 20, 2013. This publication updates FinCEN's prior Mortgage Loan Fraud (MLF) assessments examines Suspicious Activity Report (SAR) filings from January through December 2012 (CY 2012).

The report provides new information on the volume of SAR filings, geographic locations of subjects, and other filing trends in CY 2012. Tables covering non-geographic aspects are compared with filings from corresponding periods in 2011. A section provides updated statistics on foreclosure rescue-related SARs during 2012, and filers' voluntary use of the new FinCEN SAR e-filing report for voluntary mortgage fraud reporting through March 31, 2013.

This article offers an outline of the FinCEN report. [Please visit our Library to download it.](#)

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MLF SAR Filings by Year SAR Received, 2001-2012

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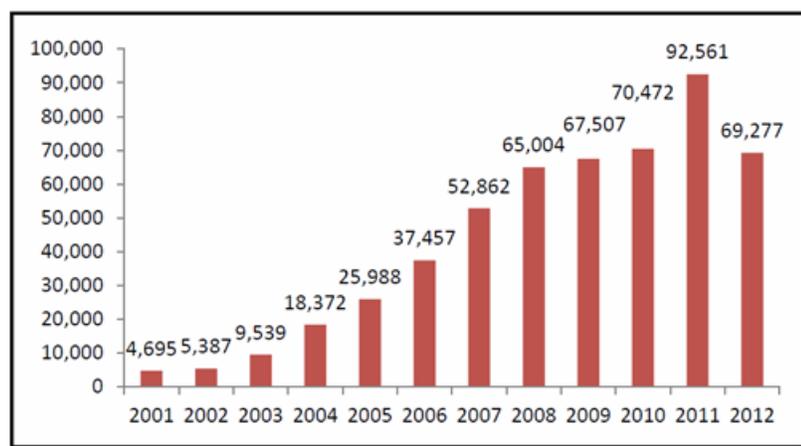
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FinCEN's data on suspected mortgage fraud shows that reports declined 25% in 2012 (from 92,561 to 69,277) as compared to the previous year. The past three years of suspected mortgage fraud suspicious activity reports (MLF SARs), if counted by the date they were received by FinCEN, accounted for approximately 46% of the past decade's mortgage fraud SARs.

We take this to mean that filing increases or decreases are not necessarily indicative of overall increases or decreases in MLF activities over a bracketed period, as the volume of SAR filings in any given period does not directly correlate to the number or timing of suspected fraudulent incidents in that period.

However, **one of the inherent features of mortgage fraud is that the suspicious activity associated with it is often only recognized and reported years after loan origination**, after a review of origination documents is prompted by a loan default, repurchase demand, or other factors. As a result, many mortgage fraud SARs are filed much later than the date that the suspicious activity actually began. Thus, in 2012, 57% of SARs reported mortgage loan fraud (MLF) activities that started more than 5 years before the SAR was filed.

The bulk of FinCEN's MLF SARs, regardless of filing date, references suspicious activity that the filers believe began in calendar years 2006 and 2007.

Mortgage Loan Fraud (MLF) SARs Time Elapsed from Activity Date to Reporting Date

Time Lapsed	CY 2012	CY 2011
0 - 90 days	10%	8%
90 - 180 days	5%	3%
180 days - 1 year	4%	3%
1 - 2 years	3%	2%
2 - 3 years	1%	4%
3 - 4 years	4%	23%
4 - 5 years	17%	32%
> 5 years	57%	26%

This chart depicts the number of annual mortgage fraud SAR filings based on the year FinCEN received the SAR versus the year that the filer believed the suspicious activity actually began (which was usually at the time of the loan origination).

It should be noted that the chart shows **there was an extraordinary concentration of suspicious mortgage origination activity beginning in 2006 and 2007**, the years immediately preceding the financial crisis of 2008.

Depository institutions filed 37,457 MLF SARs in 2006 and 52,862 in 2007. At the time, those numbers represented huge increases over previous years, but they it may now be presumed that they seriously underrepresented the amount of suspicious mortgage fraud activity that could have potentially been reported in those years if the suspicious activity had been detected closer to loan origination.

Number of Mortgage Loan Fraud SAR Filings by Year

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with and without the Term "Repurchase" in Narrative

	Repurchase SARs	Non-repurchase SARs	Total SARs
2003	318	9,221	9,539
2004	832	17,540	18,372
2005	1,226	24,762	25,988
2006	2,342	35,115	37,457
2007	3,932	48,930	52,862
2008	5,449	59,555	65,004
2009	6,353	61,154	67,507
2010	8,625	61,847	70,472
2011	40,861	51,700	92,561
2012	13,132	56,145	69,277

"Repurchase" SARs were filed by banks addressing fraud in individual mortgages that were originated during the housing bubble and quickly bundled into mortgage pools or securities. When these mortgages later defaulted, the mortgage security holder could request the "repurchase" of an individual loan by the originator when it could document fraud or other defects not detected at origination. After receiving a repurchase request, the investor would often file a "repurchase" SAR addressing fraud by individual borrowers that apparently existed, but was not caught, during the investor's loan origination due diligence.

So, it is especially useful to drill down into the statistics on "repurchase" SARs. FinCEN queried the number of MLF SARs by year since 2003 containing the term "repurchase" in the narrative. The chart shows that the number of such SARs spiked to 40,861 last year, up from 8,625 SARs in 2010 and down to 13,132 SARs in 2012. Without the "repurchase" SARs, MLF reports could have peaked at 61,847 in 2010.

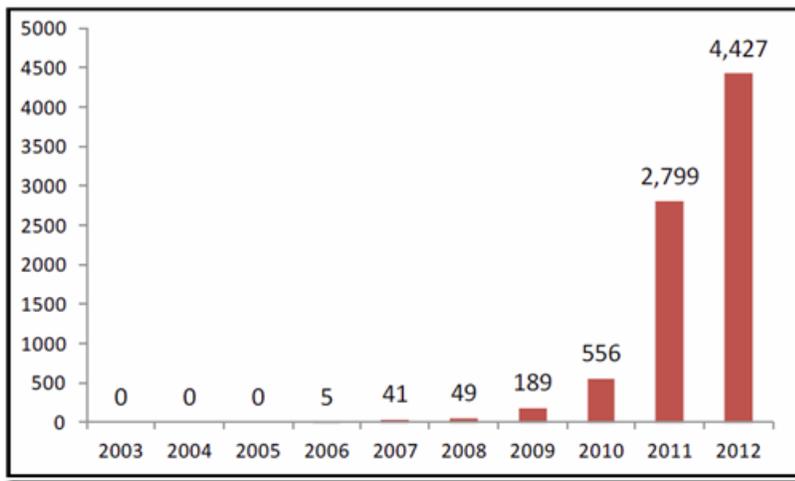
Mortgage Loan Fraud SAR Subjects - Top 20 States and Territories

State	CY 2012 Rank by total subjects	CY 2012 Rank by subjects per capita	State	CY 2012 Rank by total subjects	CY 2012 Rank by Subjects per capita
CA	1	1	CO	17	11
NV	15	2	UT	22	12
FL	2	3	RI	35	13
AZ	8	4	WA	11	14
DC	36	5	HI	33	15
GA	6	6	MI	9	16
NJ	7	7	VA	12	17
IL	4	8	MA	18	18
NY	3	9	NM	32	19
MD	13	10	DE	42	20

The chart lists the top 20 states in ranked order, based on the number of subjects per capita in CY 2012 MLF SARs with relatively recent suspicious activity (viz., dates starting after January 1, 2010). It also shows each state's rank based on the total number of SARs, without factoring population into account.

California was the number one ranked state for MLF subjects per capita and in total MLF SAR volume for CY 2012, as it was in CY 2011. For the 2012 calendar year, California was followed in the per capita rankings by Nevada, Florida, Arizona, and Washington, D.C. While Florida and Washington, D.C. held the same ranks in 2011, Nevada moved up from fourth last year, and Arizona moved up from seventh last year. Last year's number two ranked state, Hawaii, dropped to 15th in CY 2012.

Foreclosure Rescue Scams



As has been discussed in previous notices, "foreclosure rescue" scams are a persistent problem. The updated statistics are now available for "foreclosure rescue" SARs filed during CY 2012, which includes filers' voluntary use of the FinCEN SAR for mortgage fraud reporting through March 31, 2013.

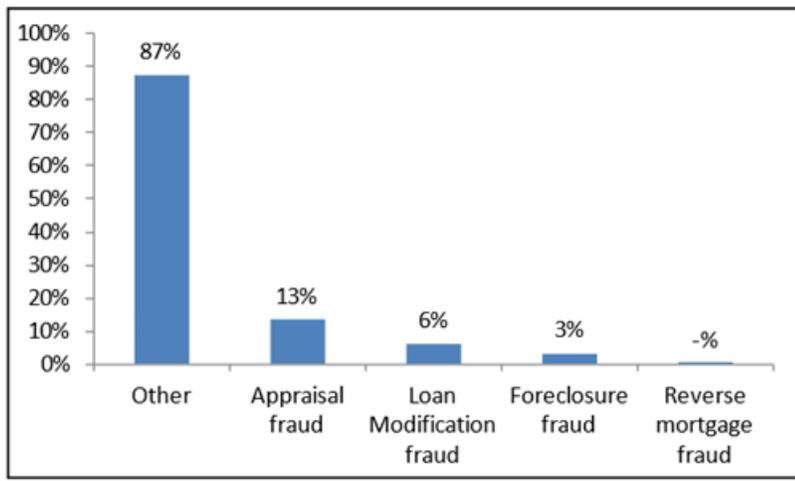
In its October 2012 mortgage fraud report, FinCEN addressed the dramatic growth in the number of SARs referencing "foreclosure rescue" scams in the narrative. FinCEN hypothesized that this substantial increase was partly a function of individuals or organized groups finding greater opportunities to commit fraud within the distressed portion of the mortgage market, compared with the opportunities to commit fraud within new loan originations. The increase in foreclosure rescue fraud may also have resulted from the greater attention that various government agencies have given to foreclosure rescue issues since 2009.

The October 2012 predicted that if "foreclosure rescue" SAR reporting continued at its first half of 2012 pace, FinCEN would receive more than 4,720 such reports for the entire year.

As the chart illustrates, the actual number of MLF SARs indicating "foreclosure rescue" in the narrative was 4,427 in CY 2012, up 58% from 2011 despite an overall decline in MLF SAR filings.

It should be noted that FinCEN designed the "suspicious activity" section of the new FinCEN SAR to more clearly identify various types of mortgage fraud. According to FinCEN, the re-designed SAR will make it easier for FinCEN and its law enforcement and regulatory partners to find and analyze SARs relevant to their specific mortgage fraud cases and projects.

Number of Mortgage Loan Fraud SAR Filings by Year with Term "Foreclosure Rescue" in Narrative, 2003-2012



Finally, it is worth noting that FinCEN now provides a breakdown of suspicious activity relating to mortgage fraud. This is accomplished through the new SAR.

The **new FinCEN SAR has five fields in the mortgage fraud category**, in order to highlight types of activity most actionable for law enforcement.

In the mortgage fraud category, the new SAR contains these fields:

- appraisal fraud,**
- foreclosure fraud,**
- loan modification,** and
- reverse mortgage fraud.**

It also includes a fifth field for **"other"** MLF, thereby allowing filers to provide a description of the fraudulent activity.

The chart shows that filers categorized the type of mortgage fraud based on these five new activity fields. In the vast majority of filings (87%), filers selected the "other" field. Filers also identified "appraisal" fraud in 13% of filings, "loan modification" fraud in 6%, "foreclosure" fraud in 3 percent, and "reverse mortgage" fraud in less than 1%. (Because filers could choose more than one category, these figures total more than 100%.)

The "other" category is more than a catch-all statistic, really. Most of the fraud described in this category was related to loan origination and borrower misrepresentations, which is consistent with FinCEN analysis of mortgage fraud in previous reports.

Statistically speaking, 38% of the FinCEN SAR filings specifically spelled out "origination fraud" in the "other" field.

Filers frequently used words describing other common types of origination-related fraud, including borrower misrepresentations of tax identification numbers (Social Security numbers and individual tax identification numbers), income tax records, employment, and occupancy of the loan property.

In addition, filers used some statistically less common phrases in the "other" field that may be of greater interest to law enforcement. For instance, according to FinCEN, filers spelled out "debt elimination" (a type of foreclosure rescue scam), in 3% of the "other" mortgage fraud filings. Filers addressed short sales, including the terms "short sale fraud" and "short sale collusion," in 4% of these filings. While less common statistically, but presumably useful for law enforcement or regulatory purposes, filers also used phrases such as "strawbuyer," "property value misrepresentation," and "altered" (documents, bank statements, tax returns, etc.) each in 1% of the "other" mortgage fraud filings. Filers also identified fraud related to loan servicing, bogus payoffs, post-funding fraud, and FHA documents.

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Mortgage Fraud SAR Filings in Calendar Year 2012

Financial Crimes Enforcement Network (FinCEN)

August 20, 2013



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