Mortgage Loan Fraud
Update

Suspicious Activity Report Filings
In 3rd Quarter 2011

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Introduction

This update to FinCEN's prior Mortgage Loan Fraud (MLF) studies looks at Suspicious Activity Report (SAR) filings from July through September 2011 (2011 Q3). It provides new information on reporting activities, geographic locations, and other filing trends in 2011 Q3. The update includes tables and illustrations of various geographies reported in 2011 Q3 based on dates that suspicious activities are reported to have begun. Tables covering non-geographic aspects are compared with filings from the corresponding period in 2010.

A section on Current Issues analyzes SARs filed during 2011 Q3 that describe suspicious activities occurring in the preceding two years (between October 2009 and September 2011).

Overall Filings

In 2011 Q3, filers submitted 19,934 Mortgage Loan Fraud SARs (MLF SARs),[1] a 20 percent[2] increase over the previous year.[3] The total number of all SARs filed in 2011 Q3 increased by 14 percent. Ten percent of all SARs filed in 2011 Q3 indicated MLF as an activity characterization, up from 9 percent in 2010 Q3.[4]

Table 1: Mortgage Loan Fraud SAR Filings
Relative to All SAR Filings

	2011 Q3	*2010 Q3*	*% Change*
MLF SARs	19,934	16,567	20%
All SARs	200,871	176,597	14%
MLF SARs as a proportion of all SARs	10%	9%	6%

1. For purposes of this report, SARs and totals thereof 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. Percentages throughout this report are rounded to the nearest whole number.
2. This upward spike in Q3 2011 MLF SAR counts is directly attributable to mortgage repurchase demands and special filings generated by several institutions.
3. Filing increases are not necessarily indicative of an overall increase in mortgage loan fraud (MLF) activities over the noted 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. For further explanation, see FinCEN's July 2010 report, "*Mortgage Loan Fraud Update: Suspicious Activity Report Filings from October 1 – December 31, 2009*" at http://www.fincen.gov/pdf/MLF%20Update.pdf.
4. MLF SARs have constituted 10 percent of all SARs filed since 2007 Q4.

Time lapses between filing and activity dates in 2011 Q3 MLF SAR filings showed continued focus on dated activities. In 2011 Q3, 82 percent of reported activities occurred more than 2 years prior to filing, compared to 77 percent in 2010 Q3 (Table 2). Moreover, the largest change came in activities that occurred 4 or more years prior to SAR filing, which were 62 percent of reporting in 2011 Q3 and only 24 percent the year before.

For both 2011 Q3 and 2010 Q3 filings, a majority of reported activities took place between 2006 and 2008.[5] In Table 2, these filing periods are highlighted in **bold** type.

Table 2: Mortgage Loan Fraud (MLF) SARs
Time Elapsed from Activity Date to Reporting Date[6]

Time Lapsed	*2011 Q3*	*2010 Q3*
0 - 90 days	9%	11%
90 - 180 days	4%	5%
180 days - 1 year	3%	3%
1 - 2 years	2%	4%
2 - 3 years	3%	**19%**
3 - 4 years	**18%**	**34%**
4 - 5 years	**30%**	**16%**
> 5 years	**32%**	**8%**

5. FinCEN has previously reported on contributing factors that triggered loan reviews and led to the discovery of more dated suspicious activities. See *Mortgage Loan Fraud Update: Suspicious Activity Report Filings from October 1 – December 31, 2009*. [note to reviewer: report cited in previous footnote]

6. Calculations for Table 2 derive from Part III, Field 33 and Part IV, Field 50 of the depository institution SAR form. Table 2 totals are based on commencement dates. SARs with omitted or erroneous filing and activity dates are not represented. While Field 33 allows filers to specify both a *commencement date* and an *end date* of suspicious activities, filers did not report an end date in 4 percent of 2011 Q3 MLF SARs. In previous periods, much fewer SARs included this information; hence, totals relying on activity end dates are significantly less comprehensive than those based on start dates. Further, for MLF SARs reporting multiyear activities, filers frequently relate activities involving older loans that the institution continues to hold. In numerous other reports, filers related older suspected frauds that the filer detected when the same borrower applied for a more recent loan with conflicting information on the loan application, hence their inclusion of more recent activity end dates. For these reasons, calculations herein use the activity start date rather than the activity end date.

For both periods, 86 percent of MLF SARs involved *suspicious activity amounts* under $500,000. Filers disclosed *loss amounts* less frequently, reporting losses in only 13 percent of 2011 Q3 MLF SARs, down from 19 percent in 2010 Q3; most reported amounts were under $500,000. Consistent with previous years, a relatively small number of MLF SARs (53 filings) included recovered amounts in 2011 Q3.[7]

Table 3: Mortgage Loan Fraud (MLF) SARs
Reported Amounts[8] of: (1) Suspicious Activity and (2) Loss Prior to Recovery

		< $100K	**$100K - $250K**	**$250K - $500K**	**$500K - $1M**	**$1M - $2M**	**> $2M**	**Not indicated**
(1) SARs reporting **suspicious activity amounts**	2011 Q3	3,542 18%	7,218 36%	6,347 32%	1,885 9%	500 3%	374 2%	68 -
	2010 Q3	2,887 17%	6,097 37%	5,232 32%	1,529 9%	425 3%	308 2%	89 1%
(2) SARs reporting **loss amounts**	2011 Q3	973 5%	861 4%	525 3%	138 1%	55 -	20 -	17,362 87%
	2010 Q3	1,423 9%	980 6%	492 3%	137 1%	38 -	17 -	13,480 81%

7. Due to the low number of MLF SARs citing recovered amounts, this data is not included in Table 3. Percentages under 1% are omitted or indicated with a hyphen in this report.
8. The amount of suspicious activity, loss prior to recovery, and recovery are reported in Part III of the SAR form, Fields 34, 36, and 37.

Subject Locations

Tables 4 through 6 rank states, metropolitan areas, and counties based on the number of subjects in 2011 Q3 MLF SARs with suspicious activity dates starting after January 1, 2009. The lists also show rankings based on numbers of subjects per capita, to highlight areas where MLF activity is greater relative to the population size.

Expanded tables for additional state, MSA, and county locations are provided at http://www.fincen.gov/mlf_sar_data/ in Excel format with historical quarterly data from January 2006 forward. Ranking methodologies and other metadata are provided within these files.

By State

State File

California and Florida remained the highest ranked states based on the number of mortgage loan fraud subjects, followed by New York and Illinois.

Per capita rankings showed some noteworthy changes from last quarter. Hawaii jumped to 1st this quarter from 6th last quarter in terms of mortgage fraud SAR subjects per capita. Delaware also moved up significantly, to 5th this quarter from 11th last quarter. California fell slightly, to 2nd this quarter, from 1st last quarter, while Florida dipped from 2nd to 4th. Rounding out the top five states, Nevada retained its 3rd place ranking this quarter from last.

Table 4: Mortgage Loan Fraud SAR Subjects
Top 20 States and Territories

State	2011 Q3 Rank by volume	2011 Q3 State Rank per capita		State	2011 Q3 Rank by volume	2011 Q3 State Rank per capita
HI	21	1		WA	10	11
CA	1	2		MD	12	12
NV	15	3		WY	43	13
FL	2	4		WI	14	14
DE	32	5		MI	7	15
AZ	8	6		UT	25	16
IL	4	7		CO	18	17
DC	41	8		VA	11	18
NJ	5	9		GA	9	19
NY	3	10		KS	29	20

By Metropolitan Statistical Area

MSA File

During 2011 Q3, Los Angeles ranked highest among the 50 most populous metropolitan areas, based on volume of reported mortgage fraud subjects, followed by New York, Chicago, Miami, and Riverside. These rankings are identical to last quarter's.

Per capita, California cities held three of the top five metro area rankings for reported mortgage fraud subjects. San Jose remained the top ranked MSA per capita, with Riverside and Los Angeles switching spots from last quarter, ranking 2nd and 3rd, respectively, this quarter. Miami was again 4th this quarter, while Las Vegas jumped from 11th last quarter to 5th this quarter. Las Vegas has only fallen out of the top five metro areas for mortgage fraud per capita in three of the last 23 quarters. Because Table 5 rankings are based only on the nation's 50 largest Metropolitan Statistical Areas (MSAs), and Honolulu is the 55th largest MSA, Hawaii's state-level gains are not reflected in this table.

Table 5: Mortgage Loan Fraud SAR Subjects
Top Metropolitan Statistical Areas (MSAs)

MSA	2011 Q3 Rank by volume	2011 Q3 Rank per capita	MSA	2011 Q3 Rank by volume	2011 Q3 Rank per capita
San Jose-Sunnyvale-Santa Clara, CA	9	1	Chicago-Naperville-Joliet, IL-IN-WI	3	11
Riverside-San Bernardino-Ontario, CA	5	2	San Diego-Carlsbad-San Marcos, CA	14	12
Los Angeles-Long Beach-Santa Ana, CA	1	3	New York-Northern New Jersey-Long Island, NY-NJ-PA	2	13
Miami-Fort Lauderdale-Pompano Beach, FL	4	4	Washington-Arlington-Alexandria, DC-VA-MD-WV	7	14
Las Vegas-Paradise, NV	16	5	Detroit-Warren-Livonia, MI	10	15
San Francisco-Oakland-Fremont, CA	6	6	Salt Lake City, UT	30	16
Tampa-St. Petersburg-Clearwater, FL	13	7	Seattle-Tacoma-Bellevue, WA	15	17
Orlando-Kissimmee, FL	18	8	Sacramento--Arden-Arcade--Roseville, CA	25	18
Phoenix-Mesa-Scottsdale, AZ	8	9	Denver-Aurora-Broomfield, CO	22	19
Milwaukee-Waukesha-West Allis, WI	26	10	Jacksonville, FL	30	20

By County

County File

Los Angeles and Cook counties remained the top two reported counties in volume for reported mortgage fraud subjects, as in the last several quarters.

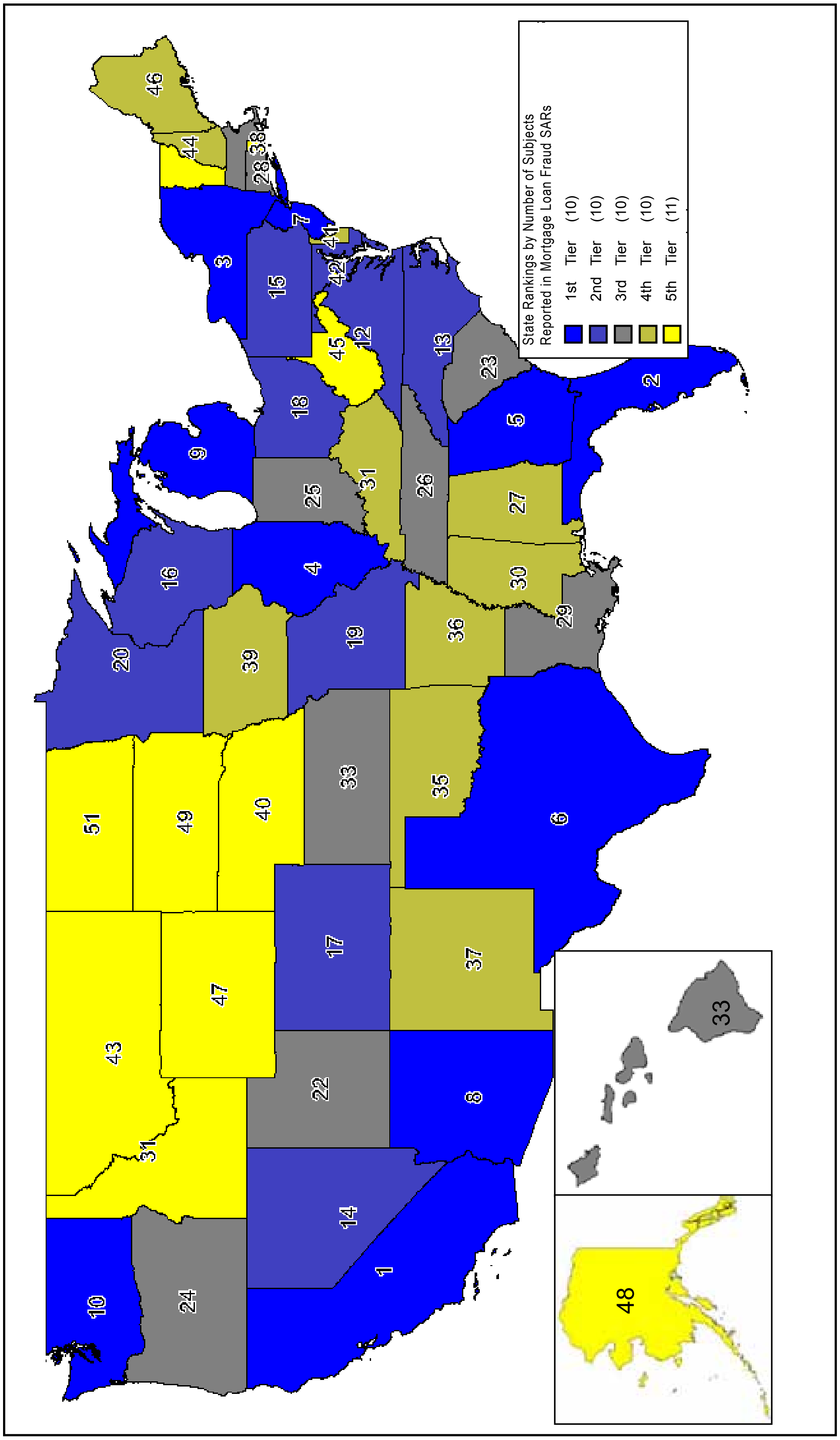
Per capita, Santa Clara remained the top ranked county, for the third consecutive quarter. Orange, California also retained a high ranking, at 3rd this quarter, down slightly from 2nd last quarter. Consistent with FinCEN state data, which showed a jump in Hawaii's ranking, Honolulu County soared into 2nd place this quarter, up from 38th last quarter. Other noteworthy increases included San Bernardino, which rose to 4th from 19th; Nassau, to 8th from 22nd; and Fairfax to 11th from 23rd. Noteworthy decreases included Los Angeles, down to 12th this quarter, from 4th last quarter, and Miami-Dade to 17th from 9th.

Table 6: Mortgage Loan Fraud SAR Subjects
Top Counties

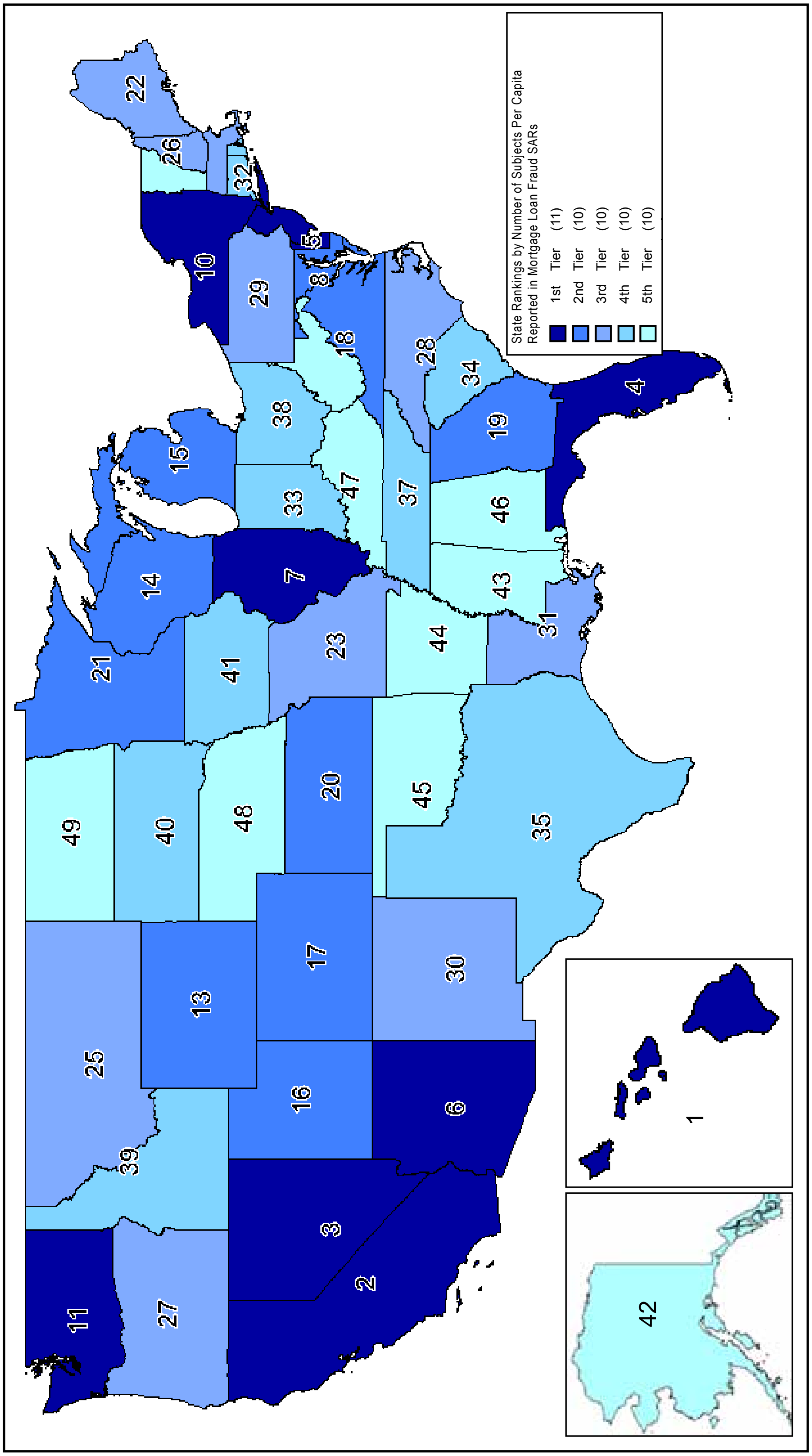
County	State	2011 Q3 Rank by volume	2011 Q3 Rank per capita		County	State	2011 Q3 Rank by volume	2011 Q3 Rank per capita
Santa Clara	California	5	1		Fairfax	Virginia	19	11
Honolulu	Hawaii	19	2		Los Angeles	California	1	12
Orange	California	3	3		Alameda	California	15	13
San Bernardino	California	6	4		San Joaquin	California	34	14
Palm Beach	Florida	13	5		Clark	Nevada	11	15
San Mateo	California	27	6		Milwaukee	Wisconsin	26	16
Broward	Florida	9	7		Miami-Dade	Florida	8	17
Nassau	New York	13	8		New York	New York	16	18
Riverside	California	7	9		DuPage	Illinois	28	19
Hillsborough	Florida	18	10		Oakland	Michigan	23	20

The following maps show mortgage fraud geographic concentrations reported in 2011 Q3 for activities occurring during the previous two calendar years (i.e. 2009 Q1 –2011 Q3). Maps show subjects for 50 states and 962 metropolitan areas, with concentrations based on numeric and per capita subject totals.

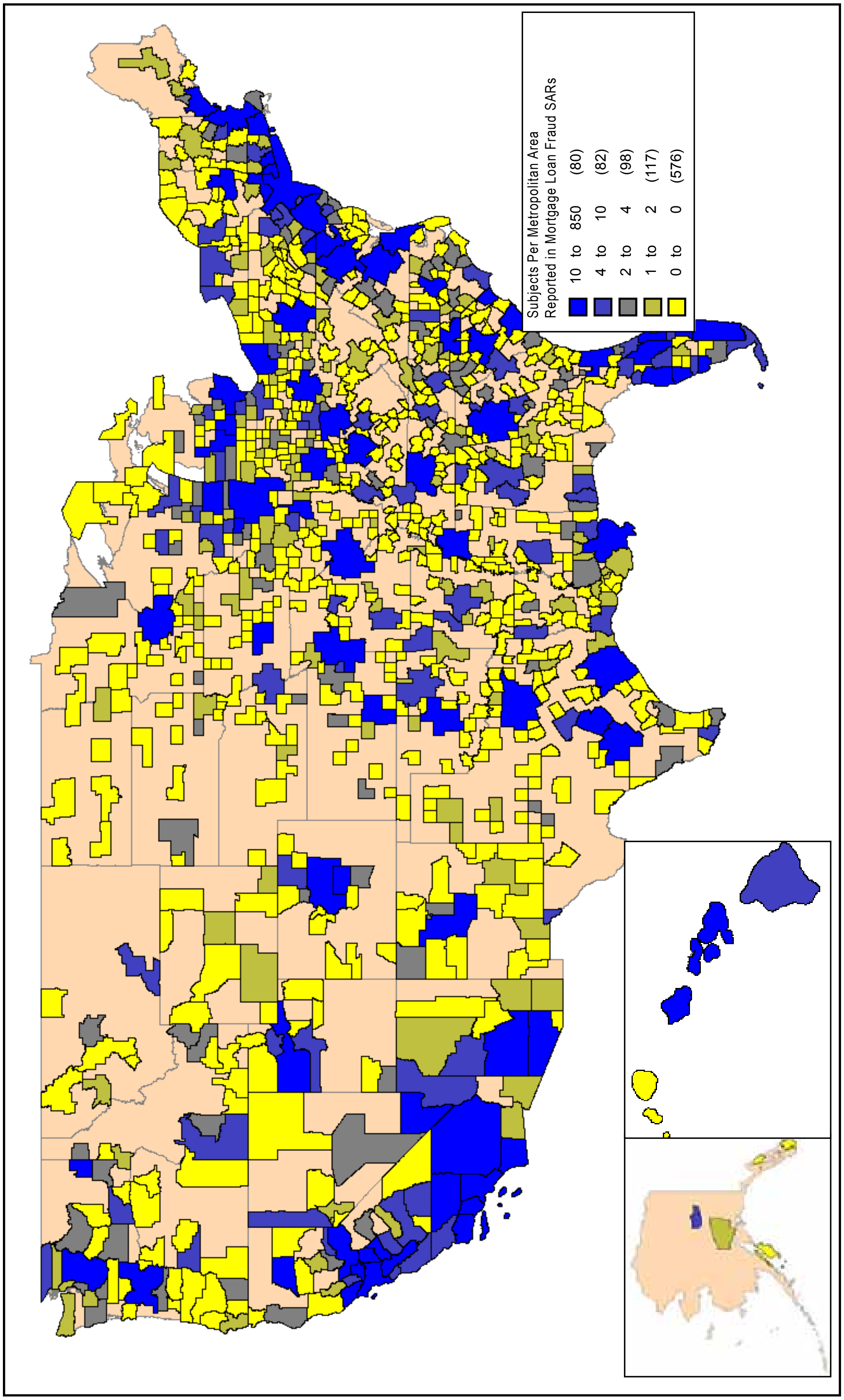
Mortgage Loan Fraud SAR Subjects
State Location Ranks, July — September, 2011



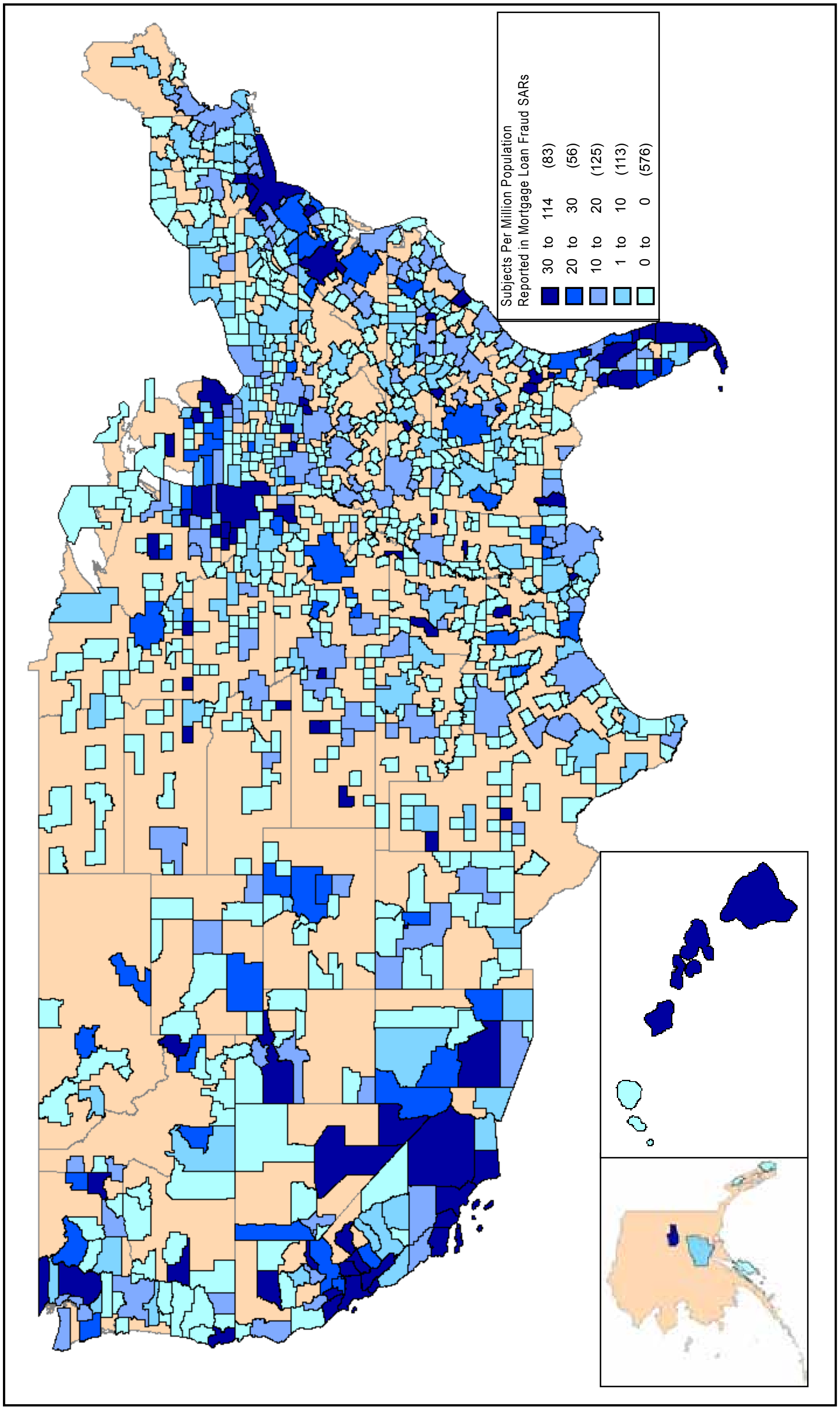
Mortgage Loan Fraud SAR Subjects Per Capita
State Location Ranks, July — September, 2011



Mortgage Loan Fraud SAR Subjects
Top Metropolitan Areas, July — September, 2011



Mortgage Loan Fraud SAR Subjects Per Capita
Top Metropolitan Areas, July — September, 2011



Current Issues

New Methodology

FinCEN's objective in this section is to define "recent" suspicious activity more broadly than it has in the past two reports, to see if this might capture different activity patterns. Thus this section provides an overview of mortgage fraud SARs filed during 2011 Q3 describing suspicious activities that occurred in the preceding two years (between October 2009 and September 2011). Twenty nine percent of the 19,934 mortgage fraud SARs filed during 2011 Q3, or 5,728 reports, met this criteria.[9] This contrasts with the last two FinCEN mortgage fraud quarterly reports, in which the Current Issues section focused on suspicious activities starting 90 or fewer days before filing.[10] These were approximately 6 percent of the reports filed in 2011 Q1 and Q2.

Assessment of Activity Starting and Ending Dates

In addition, this section looks at both starting and ending dates of suspicious activity, as reported by filers in Part III, Field 33 of the SAR form. In contrast, Table 2 of this report focuses on the lag between activity starting dates and SAR filing dates.

Lengthy gaps between starting and ending dates in many mortgage fraud SARs that initially suggest more current activities can actually reflect dates of longer term *effects* – usually financial – of the suspicious activity, rather than the *duration* of the activity itself. Numerous filings with date ranges of extended duration appear to be describing older loans where fraud is only being discovered now because there has been an adverse financial effect from the fraud. Were it not for the financial effect, the fraud might not have been discovered. Thus many current SARs with long gaps between starting and ending dates are a result of financial institutions' quality

9. Filings were confirmed as occurring during the preceding two years based on examination of the starting and ending dates reported by filers (in Part III, Field 33 of the SAR form) and based on term searches in the narrative (Part V of the SAR form.)

10. Please see FinCEN's Q1 MLF quarterly report, page 13, http://www.fincen.gov/news_room/rp/files/MLF_Update_1st_Qtly_11_FINAL_508.pdf and Q2 MLF Quarterly report, page 13, http://www.fincen.gov/news_room/nr/files/MLF_Update_Q2_2011_508.pdf

assurance reviews of original loan documents precipitated by law enforcement actions, repurchase demands, rescission notices,[11] or financial losses incurred from nonperforming loans.

For purposes of calculation, a majority of SARs reported discrete incidents taking place in a single day or over a short period[12] that could reasonably be associated with loan applications and processing, making it a straightforward technical procedure to assess relevance of timeframes. However, 31 percent of the 19,934 mortgage fraud SARs filed during 2011 Q3 showed a period of suspicious activity lasting more than a year.[13] Whether such reports truly concern current or historical activities – or ongoing suspicious activities with equally questionable antecedents – is the most challenging aspect in assessing if reports are in fact about current suspicious activities. A close examination of this subset found more than 2,600 mortgage fraud SARs filed for recent activities (as opposed to filing because of the long term effects cited above). Adding the remaining 3,200 SARs from the same period that had shorter activity date ranges shows nearly 6,000 (30 percent) of the quarterly mortgage fraud filings involved activities taking place over the previous two years.

Recent Issues in SARs

Despite the different methodology for defining "recent" SARs, FinCEN found many familiar suspicious activities included in 2011 Q3 SARs. The most noteworthy new finding was that 46 percent of recent SARs referenced some form of loan workout or debt elimination attempt. These incidents typically involved questionable refinance or loan modification attempts by borrowers or others targeting distressed homeowners.

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11. A rescission notice occurs when a party to a contract declares an agreement voided. Mortgage insurers and other agencies offering credit enhancement instruments frequently void agreements and issue coverage denials based on inaccuracies in representations and warranties (reps & warranties) contractual clauses. Fraud is one of several commonly cited reps and warranties violations in such disputes.
12. Twenty-seven percent of 2011 Q3 SARs reported incidents taking place on a single day. Fifty-three percent described incidents taking place in 45 or fewer days and could reasonably be associated with loan applications and processing.
13. Determined by calculating differences from the suspicious activity start and end date fields. This differs from Table 2 figures in a preceding section, which indicate the difference between the suspicious activity start date and the filing date.

In more than 15 percent of recent reports, filers detected Social Security Number (SSN) discrepancies submitted in the original loan application and the workout request. These were usually detected during quality control department refinancing application reviews, fraud hotline referrals, anonymous tips, internal referrals, borrower or victim complaints, or law enforcement inquiries and frequently ended with application denials. This compares to 11 percent of recent SARs in the 2011 Q2 MLF report addressing SSN discrepancy issues.

Nearly 300 mortgage fraud SARs, or about 1.5 percent of 2011 Q3 filings, cited bankruptcies. Conflicting information on bankruptcy petitions appeared to fuel repurchase demands, as 75 percent of mortgage fraud SARs involving bankruptcies also noted a repurchase request. Filers also cited a number of borrower complaints including claims of predatory lending or Freeman-style[14] debt renunciations. Q3 2011 SARs also reflected a decline in bankruptcy-related filings since FinCEN last addressed the subject. In its CY 2010 annual mortgage fraud report, FinCEN noted 6 percent of MLF filings also mentioned bankruptcy, up from a 1 percent norm in 2006 and 2007.[15]

14. "Freeman-style" arguments refer to specious arguments that avow that the funds were never loaned and therefore the borrower has no duty to repay the mortgage. These arguments rely on an unreasonable interpretation of Section 1-207 of the Uniform Commercial Code that has never been affirmed or supported by any court or governmental authority.

15. Please see FinCEN's CY 2010 MLF annual report, page 14, http://www.fincen.gov/news_room/rp/files/MLF_Update_4th_Qtly_10_FINAL_508.pdf

16.

Additional Items of Interest in Recent SARs

In one instance, a borrower attempted to prove hardship to qualify for a loan modification on the grounds that she had misrepresented her income on her original loan. A relatively small number of SARs included claims of ID theft usually discredited by the lender, including claims of forgery or elder exploitation. Other notable incidents described in SAR narratives – though few in number –included fraudulent claims under the Servicemembers Civil Relief Act (SCRA), where applicants submitted fraudulent claims and documents, despite never having been in the military. Other reported suspicious activities included false home inspections indicating allegedly defective drywall manufactured in China. This defect deflated the home's value and enabled a fraudulent short sale. One filer suspected that several parties colluded in a lease-to-buy foreclosure bailout scam, including a recently licensed mold and drywall home inspector, a drywall contractor, and buyer and seller.

FinCEN encourages readers to respond with reactions and comments to this report. Please provide FinCEN with any feedback regarding the contents of this report by contacting Webmaster@fincen.gov. Please mention "MLF Q3 report" in your email.

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