

Insights

FINCEN PROPOSES AML/CFT RULES FOR INVESTMENT ADVISERS

Feb 23, 2024

On February 13, 2024, the U.S. Treasury Financial Crimes Enforcement Network (FinCEN) issued a Notice of Proposed Rulemaking regarding a new proposed rule that would require certain investment advisers to apply anti-money laundering and countering the financing of terrorism (AML/CFT) measures pursuant to the Bank Secrecy Act (BSA).

The proposed rule would amend the definition of “financial institution” under the Bank Secrecy Act to include “investment advisers” and require SEC-registered investment advisers (RIAs) and exempt reporting advisers (ERAs) to:

- implement an AML/CFT program;
- file certain reports, such as Suspicious Activity Reports, with FinCEN;
- keep records such as those relating to the transmittal of funds;
- fulfill other obligations applicable to financial institutions subject to the BSA and FinCEN’s implementing regulations; and
- apply information-sharing provisions between and among FinCEN, law enforcement government agencies, and certain financial institutions.

At this time, FinCEN is not proposing a customer identification program requirement for investment advisers nor are they proposing an obligation for investment advisers to collect beneficial ownership information for legal entity customers. Both of these issues are expected to be addressed in subsequent rule making.

Under the proposed rule RIAs and ERAs would be required to comply with the rule on or before 12 months from the rule’s final effective date. Under the proposed rule, FinCEN has delegated examination authority for compliance to the SEC.

FinCEN has proposed AML regulations for investment advisers several times since 2002, but none of those proposed rules have gone into effect. The current proposed rule was formulated in

conjunction with a [risk assessment](#) performed by the U.S. Department of Treasury on the investment adviser industry.

The comment period for the proposed rule is open until April 15, 2024. Clients interested in providing comments are encouraged to consult with their BCLP contacts or any of the attorneys listed below.

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