



New FinCEN AML Rule

Effective January 1, 2026

The background is a blurred image of a document. A blue arrow-shaped overlay points to the right, containing the title text. A pen is visible on the right side of the document.

Introduction to the New FinCEN AML Rule

SEC's Role with the FinCEN Rule

While FinCEN issued the rule, it delegated examination authority to the SEC. The SEC will oversee compliance among covered investment advisers, leveraging its existing regulatory framework for RIAs. However, FinCEN retains authority to impose civil penalties for violations.

Topics We'll Discuss

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Quiz

**Are you currently
registered with a:**

- A. Broker Dealer**
- B. RIA**
- C. Both an RIA and a
BD**
- D. An ERA**

Overview of FinCEN and it's Role

The Financial Crimes Enforcement Network (FinCEN) is a bureau of the U.S. Department of the Treasury that plays a key role in safeguarding the financial system from illegal activities such as money laundering, terrorist financing, and other financial crimes. Its mission is to support national security, combat financial crime, and protect the financial infrastructure through a combination of regulatory oversight, data analysis, and enforcement.

Overview of FinCEN and Their Role

Key Roles of FinCEN

- **Regulation and Enforcement:** FinCEN issues regulations that financial institutions must follow to prevent money laundering and other financial crimes. It enforces compliance with laws such as the **Bank Secrecy Act (BSA)**, which requires financial institutions to keep records and file reports that could help detect and prevent money laundering and other illegal activities.
- **Information Gathering and Analysis:** FinCEN collects and analyzes financial data from institutions through reports such as **Suspicious Activity Reports (SARs)** and **Currency Transaction Reports (CTRs)**. These reports help identify patterns of illicit activity and serve as valuable intelligence for law enforcement agencies.
- **Collaboration with Other Agencies:** FinCEN works closely with federal, state, and international law enforcement agencies, as well as foreign governments and financial institutions, to combat financial crimes on a global scale.
- **Financial Intelligence Unit (FIU):** FinCEN acts as the U.S. Financial Intelligence Unit, which means it serves as a central point for collecting, analyzing, and disseminating financial intelligence related to criminal activities.
- **Policy Development and Guidance:** FinCEN develops and issues guidance to help financial institutions comply with anti-money laundering (AML) laws and regulations. It also works to create policies aimed at improving the effectiveness of the financial system in detecting and preventing financial crimes.

Context of the New Rule

The SEC's new AML Final Rule aims to strengthen measures to combat illicit finance and national security threats within the investment advisor sector. It requires Registered Investment Advisors to adopt AML programs and report suspicious activities, aligning with similar regulations for other financial institutions. The rule mandates that advisors establish policies to detect, prevent, and report money laundering and terrorist financing risks. This includes conducting Customer Due Diligence (CDD), keeping records of transactions, and filing Suspicious Activity Reports (SARs) with FinCEN.

Context of the New Rule

The rule also enhances transparency by requiring investment advisors to assess and mitigate potential risks of illicit activities, such as those linked to Politically Exposed Persons (PEPs). It comes in response to growing concerns about the role of the investment sector in facilitating financial crimes and threats to national security. This regulation aims to bolster the U.S. financial system's resilience against illicit activity while ensuring investment advisers comply with AML and counterterrorism financing standards. The SEC's rule strengthens the regulatory framework for investment advisers, enhancing their role in safeguarding financial markets and national security.

Context of the New Rule

What is a PEP?

PEPs in Government Roles

- **Legislative Bodies:** An example is a Member of Parliament
- **Executive Bodies:** A PEP could range from the head of state down to the assistant ministers
- **Diplomatic Roles:** Ambassadors or chargé d'affaires would be considered PEPs
- **Judiciary Bodies:** Key people working within supreme courts, constitutional courts or high-level judicial bodies
- **State-Owned Enterprises:** A PEP would typically be anyone from a senior executive upwards. However, even former members of the board of directors no longer associated with an organization may retain influence and still be flagged as PEPs

PEPs in Organizations and Institutions

- **Central Financial Institutions:** Examples here would be the Court of Auditors and members on the boards of central banks
- **Armed Forces:** In this situation a PEP rating would typically only apply to a high-ranking officer
- **International Sports Committees:** Members of these committees may be influenced to vote on the location of major sporting events/contracts for building venues, etc., so have recently been included by FATF under their definition of a PEP

Known 'Close Associates' who are Considered PEPs

Immediate Family Members who are Considered PEPs

Quiz

Test Yourself: Are these people PEPs?

- The mayor of Paris
- A former member of the board of directors for a state-owned enterprise
- A famous actress
- Head of the Olympic Committee
- The son-in-law of the mayor of Paris
- A town councilor
- The justice of the peace in a Magistrates Court
- The manager of a national football team
- The business partner of someone who has a sister on the Olympic Committee

Quiz

**Have you been
subject to AML Rules
in the past with your
current or former
employer?**

A. Yes

B. No

Key Components of the Final Rule

AML Program

Requirement: Investment advisers must implement robust AML programs to detect, prevent, and report money laundering and terrorist financing activities. These programs must be tailored to the firm's specific risks.

- **Customer Due Diligence (CDD):** Advisers must conduct CDD to verify client identities and understand the nature of client relationships. This helps identify and mitigate risks associated with illicit activities.
- **Suspicious Activity Reporting:** Advisers must file **Suspicious Activity Reports (SARs)** with FinCEN if they detect potential illicit transactions, similar to other financial institutions.
- **Recordkeeping:** Firms must maintain records of certain transactions and client information, which are essential for compliance and regulatory oversight.
- **Risk-Based Approach:** The rule mandates a risk-based approach to AML compliance, requiring advisers to assess their client base and the risk levels of different types of accounts and activities.
- **Ongoing Monitoring and Training:** Investment advisers are required to implement continuous monitoring of transactions and train staff to recognize and report suspicious activity.

A close-up photograph of a person's hand, wearing a watch, pointing at a document. The document features a pie chart and a bar chart. A semi-transparent blue banner is overlaid across the middle of the image, containing the text "Who is Impacted?".

Who is Impacted?

Registered Investment Advisors (RIAs)

**Registered
Investment
Advisors that
are affiliated
with a Broker
Dealer**

These dually-registered entities already have robust AML programs as Broker-Dealers have been required to meet these standards for many years. They will need to confirm that the advisory side of their business now keeps similar books and records to their brokerage side.

Registered Investment Advisors (RIAs)

**Registered
Investment
Advisors that are
independent
from the Broker
Dealer that their
reps affiliate with
(outside RIA)**

These RIAs have to create a program as they have previously relied on the Broker Dealer's AML program. Now they must have their own. They may receive support and guidance from their Broker Dealer relationship.

Registered Investment Advisors (RIAs)

**Registered
Investment
Advisors that
are fully
independent
from Broker
Dealers**

These RIA firms utilize a Broker Dealer only as a custodian. In the past, it was sufficient from them to rely on the custodian's AML program. Now they must have a fully formed program of their own.

Exclusions and Exemptions

Excluded Investment Advisers

The final rule does not apply to:

- **Mid-Sized Advisers:** RIAs with between \$25 million and \$100 million in assets under management (AUM) who are not required to register with or are not subject to examination by the state where they maintain their principal office and place of business.
- **Multi-State Advisers:** RIAs with less than \$100 million in AUM who are required to register as an adviser with 15 or more states.
- **Pension Consultants:** RIAs who provide investment advice to certain employee benefit plans, governmental plans, or church plans under the Employee Retirement Income Security Act of 1974.
- **No-Reported-AUM Advisers:** RIAs that do not report any regulatory AUM on Form ADV.
- **State-Registered Investment Advisers:** RIAs that are registered with state regulators.
- **Foreign Private Advisers:** Advisers defined under Section 202(a)(30) of the Advisers Act.
- **Family Offices:** Entities excluded from the definition of “investment adviser” pursuant to Section 202(a)(11)(G) of the Advisers Act

Excluded Advisory Activities

Investment advisers are not required to apply their AML/CFT programs to:

- **Advisory Services to Mutual Funds and ETFs:** Mutual funds and ETFs registered under the 1940 Act are already subject to AML/CFT requirements and are excluded from the investment adviser’s AML program.
- **Bank- and Trust Company-Sponsored Collective Investment Funds:** These funds are subject to AML/CFT requirements and are excluded from the investment adviser’s AML program
- **Subadvisory Services:** Advisory services provided to another investment adviser subject to the final rule are excluded, provided the adviser does not have a direct contractual relationship with the underlying customers of the other adviser.
- **Non-Advisory Services:** Services such as making managerial or operational decisions about portfolio companies are not subject to AML/CFT program requirements



Key Compliance Requirements

Establishing a Risk-Based AML/CFT Program

This portion of the rule has both the most flexibility and yet provides the most opportunity for error. To establish a program that meets the risk associated with your RIA's business practices and clientele.

Customer Due Diligence

Initial Customer Due Diligence

All prospective customers of the Firm will be required to provide basic information prior to the opening of any account and submit any required supporting documents. Additional due diligence may be warranted depending on the specific circumstances, including the type of customer, its home jurisdiction, and on how well the Firm already knows the account applicant. Additional due diligence may include taking steps to ensure that the customer, or the source of the funds, is legitimate.

Whenever a material modification is made to an existing account (e.g., new settlors, new beneficiaries, new authorized representatives, or additional assets are to be involved) or additional new business is accepted from the same customer, appropriate documents to update and correct the Firm's records must be provided.

Customer Identification Verification Program

Minimum information to be obtained from each customer includes the following:

- a. Name
- b. Date of birth for natural persons
- c. Residential address for individuals/principal place of business for entities
- d. Mailing address (if different from residential/principal address)
- e. Tax identification numbers for US Persons
- f. Passport numbers and country of issuance for non-US Persons
- g. The identity of the beneficial owners of legal entity customers opening accounts.

Customer Due Diligence

Comparing Customer Names to the OFAC (Office of Foreign Assets Control) List

The AML Officer will review all prospective customer names against the OFAC Blocked Persons List. Any matches will require further due diligence by the AML Officer to determine whether the prospective customer is subject to any sanctions.

Prohibited Customers

Under no circumstances will the Firm open any account for, or on behalf of, any person whose name, or alias, is on the OFAC Blocked Persons List or for any entity that has a principal owner or authorized representative whose name, or alias, is on such list. Additionally, the Firm will not open any account for, or on behalf of, any person, or for any entity, which resides in, or has connections to, or was formed in, a regime subject to OFAC sanctions.

Customer Failure to Comply with Firm Policies

If an existing or prospective customer fails to satisfy the Firm's AML policy and procedures, the AML Officer shall decide whether to require the withdrawal or rejection of such person as a customer and whether it is necessary to report such matter to the appropriate government agency.

Customer Due Diligence

Ongoing Customer Due Diligence

The Firm is responsible for conducting ongoing customer due diligence. As Firm policy, the Firm will review customer risk profile information and general customer information with customers annually. Further, the Firm is responsible for conducting ongoing monitoring to identify and report suspicious transactions.

The Firm is responsible for filing Suspicious Activity Reports (SARs) to FinCEN if suspicious transactions are identified based on the Firm's customer risk profile review. Suspicious transactions are those that, among other things, have no business or apparent lawful purpose or are not the sort in which the particular customers would normally be expected to engage.

Key risk factors for a natural person customer may include the source of funds, the jurisdiction in which the customer resides, and the customer's country(ies) of citizenship. The Firm can evaluate certain lower risk relationships through consideration of "inherent or self-evident information," including the type of customer or type of account, service or product.

Suspicious Activity Monitoring and Reporting (SARs)

Within 30 days of initial detection by the investment adviser of facts that may constitute a basis for filing a SAR, the Firm must complete and file a SAR with FinCEN in accordance with all form instructions and applicable guidance.

The Firm is required to collect and maintain supporting documentation relating to each SAR separately and make such documentation available to (1) FinCEN, (2) any Federal, State, or local law enforcement agency, and (3); or any Federal regulatory authority, such as the SEC. This documentation must be maintained for a period of five years from the date of filing.

If no suspect is identified on the date of such initial detection, the Firm may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection.

Quiz

Have you ever seen any suspicious activity that you would have reported under this rule had it been in effect?

- A. Yes**
- B. No**

Currency Transaction Reports (CTRs) Filing and Recordkeeping

In compliance with the new rule, the Firm is now required to file reports for the receipt of more than \$10,000 **in cash and negotiable instruments** using a CTR, unless subject to an applicable exemption. CTR filing is available for free via the FinCEN BSA E-Filing System. The CTR filing replaces the Form 8300. The Firm is also responsible for creating and retaining records for transmittals of funds.

This requirement is unlikely to apply to most RIA Firms. However, understanding it and knowing that if you do accept currency, this portion of the rule will apply to your business.

Recordkeeping and Documentation

Wire Transfers

Are all transmittals of funds subject to this rule?

Only transmittals of funds equal to or greater than \$3,000 (or its foreign equivalent) are subject to this rule, regardless of whether or not currency is involved.

Travel Rule Requirements

Transmitter

- The name of the transmittor,
- The account number of the transmittor, if used,
- The address of the transmittor,
- The identity of the transmittor's financial institution, The amount of the transmittal order,
- The execution date of the transmittal order, and
- The identity of the recipient's financial institution;

Recipient

- The name of the recipient,
- The address of the recipient,
- The account number of the recipient, and any other specific identifier of the recipient

Recordkeeping and Documentation

Does the rule require any reporting to the government of any information?

No. However, if a transmittal of funds seems to the financial institution to be suspicious, then a Suspicious Activity Report is required, if the financial institution is subject to the Bank Secrecy Act's suspicious activity reporting requirement.

How long does a financial institution have to keep records required by these new rules?

Five (5) years.

A close-up photograph of two hands, one on the left and one on the right, holding two interlocking puzzle pieces. The puzzle pieces are light gray. A semi-transparent blue banner with a right-pointing arrow shape is overlaid across the center of the image, containing the text 'Government Cooperation and Information Sharing' in white. The background is a blurred image of a person in a dark suit and a striped tie.

Government Cooperation and Information Sharing

Responding to Government Inquiries

All Registered Investment Advisors are now required to respond to any government inquiry related to money laundering, terrorist financing, and other illegal financial activity.

AML Investigations and Reporting Obligations

Within 30 days of initial detection by the investment adviser of facts that may constitute a basis for filing a SAR, the Firm must complete and file a SAR with FinCEN in accordance with all form instructions and applicable guidance. The is required to collect and maintain supporting documentation relating to each SAR separately and make such documentation available to (1) FinCEN, (2) any Federal, State, or local law enforcement agency, and (3); or any Federal regulatory authority, such as the SEC. This documentation must be maintained for a period of five years from the date of filing.

If no suspect is identified on the date of such initial detection, the Firm may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection.

In compliance with the new rule, some Firms will be required to file reports for the receipt of more than \$10,000 in cash and negotiable instruments using a CTR, unless subject to an applicable exemption. CTR filing is available for free via the FinCEN BSA E-Filing System.

Many Firms will be subject to an exemption and will therefore continue to be required to file reports for the receipt of more than \$10,000 in currency and certain negotiable instruments using joint FinCEN/Internal Revenue Service Form 8300.

In either case, the Firm is also responsible for creating and retaining records for transmittals of funds

Establishing Internal Policies and Procedures

The rule requires RIAs and ERAs to:

- implement a risk-based and reasonably designed AML/CFT program;
- file certain reports, such as Suspicious Activity Reports (SARs), with FinCEN;
- keep certain records, such as those relating to the transmittal of funds (i.e., comply with the Recordkeeping and Travel Rules); and
- fulfill certain other obligations applicable to financial institutions subject to the BSA and FinCEN's implementing regulations, such as special information sharing procedures.

FinCEN is delegating its examination authority for the requirements of this rule to the SEC, the Federal functional regulator responsible for the oversight and regulation of investment advisers.

The Firm's AML/CFT program must be approved in writing by its board of directors or trustees, or if it does not have a board, by its sole proprietor, general partner, trustee, or other persons that have functions similar to a board of directors (this may include the Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and other senior management with similar status or function). The Advisor's written program to be made available for inspection by FinCEN or the SEC.

Staff Training and Awareness

The Firm is responsible for establishing a training program which should provide a general awareness of overall AML/CFT requirements and money laundering, terrorist financing, and other illicit finance risks. The training may be conducted through outside or in-house seminars and may include computer-based or virtual training.

The Firm's training program must also address more job-specific guidance tailored to particular employees' roles and functions with respect to the entities' particular AML/CFT program

Quiz

**Have you completed
AML training in the
past?**

A. Yes

B. No

Monitoring and Auditing the AML Program

The Firm is required to conduct independent testing either by the investment adviser's personnel or a qualified outside party. The Firm is permitted to use trained internal staff who are not involved in the function being tested, the AML/CFT officer or any party who directly, and in some cases, indirectly reports to the AML/CFT officer.

A group of business professionals in a meeting, looking at a tablet displaying financial charts. A hand is pointing at the screen. The background is blurred, showing other people in business attire.

Preparing for the Compliance Deadline

Steps for Immediate Action

**Analyze your Firm's
needs**

**Draft your Firm's
new policies**

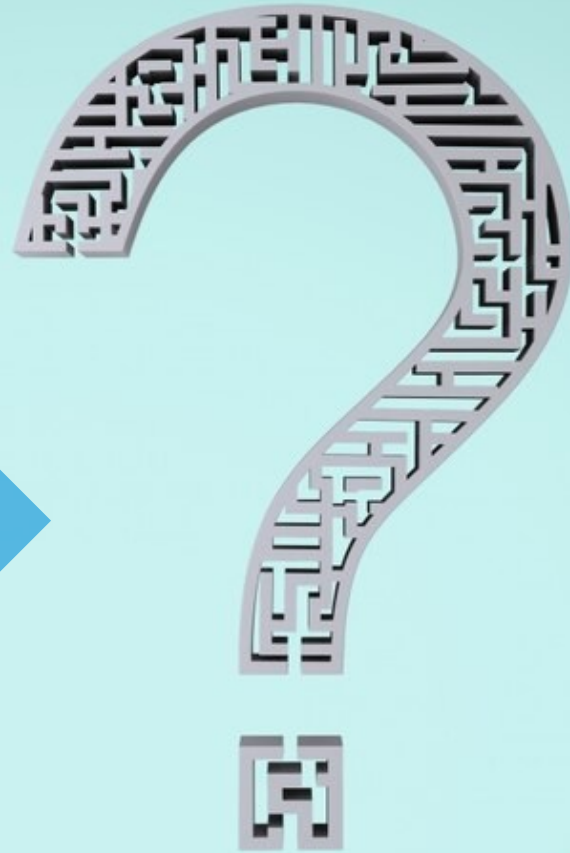
Resources and Tools for Compliance

Start to Prepare Now

If you work with a compliance consultant, your consultant should be able to assist you with creating your new AML program.

Financial Crimes Enforcement Network has information and guidance on its website.

Q&A





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