

Bank Secrecy Act Rules Reform

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Issue Update

The Anti-Money Laundering Act of 2020 (AMLA) was the first comprehensive overhaul of Bank Secrecy Act (BSA) laws in over two decades, but these reforms have generally not yet been implemented. Treasury Secretary Scott Bessent recently voiced support for true risk-based BSA rule reform — expressly allocating resources to higher-risk areas and away from lower-risk areas — which would allow banks to focus on real threats, including the \$158.3 billion Americans have lost to fraud, and the trillion-dollar fentanyl crisis. With this support, we have a novel opportunity to push for important, overdue BSA reforms.

Why It Matters

BSA Program Rule Reform. True BSA program rule reform would explicitly allow banks to reallocate compliance resources away from low-risk areas and direct them to high-risk areas to focus on real threats and eliminate unnecessary paperwork.

Customer Due Diligence (CDD) Rule Reform. In response to ABA advocacy, FinCEN now understands that banks open between 140-160 million new accounts each year, rather than one account per company, so the CDD rule, which requires the collection of ownership information *each time* a new account is opened (even by existing customers), places an enormous burden on banks. Instead, CDD information should be collected on a “per customer” basis and updated on the basis of risk.

Beneficial Ownership Reform. Although FinCEN recently exempted 33 million U.S. small businesses from beneficial ownership reporting requirements by amending its beneficial ownership reporting rule (limiting it to 12,000 foreign businesses), FinCEN needs to make the reporting rule changes ABA recommended to complete this reform.

Reports Required Under the BSA. Cash is still king and innocent cash transactions should not require reporting. In 2023, over 20 million Currency Transaction Reports (CTRs) were filed with FinCEN, five times more than reports of suspicious activity (SARs) that year. Over a third of banks’ SARs are structuring SARs, diverting banks’ resources away from investigating real threats. Instead of requiring reporting on law-abiding customers, FinCEN should limit CTRs to reporting suspicious cash transactions. State-licensed cannabis businesses shouldn’t require SAR reporting either. FinCEN must also modernize the unwieldy SAR reporting form, full of unread boxes that don’t help law enforcement but do pose compliance traps for banks.

Feedback. FinCEN and federal law enforcement agencies must improve feedback to banks. Typically, when a bank submits a SAR to FinCEN, the bank hears nothing more. Banks should receive updated information on evolving law enforcement priorities in order to tune their programs and not be asked to screen for outdated advisories. Banks should be able to flag a select group of their most important priority SARs for law enforcement and get feedback.

Recommended Action Item

Express support for these regulatory reforms to FinCEN, providing examples of how the outdated rules divert you from protecting your customers and the U.S. financial system from the real threats.