

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 must be implemented. Senior leadership at Treasury and the federal banking agencies support true risk-based BSA reform — expressly allowing banks to allocate resources to higher-risk areas and away from lower-risk areas — to focus on real threats, including the \$158.3 billion Americans may lose annually to fraud, and the trillion-dollar fentanyl crisis. Now is the time for reform.

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, while eliminating unnecessary paperwork and box-checking.

Customer Due Diligence (CDD) Rule Reform. 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 beneficial ownership information *each time* a new account is opened (even by existing customers), places an enormous burden on banks. Instead, beneficial ownership information should be collected on a “per customer” basis and updated on the basis of risk.

Beneficial Ownership Rule Reform. FinCEN recently exempted 33 million U.S. small businesses from beneficial ownership reporting requirements, limiting it to 12,000 foreign businesses. FinCEN should implement additional changes to complete this reform.

Reports Required Under the BSA. Cash is still king and over 20 million Currency Transaction Reports (CTRs) —1 for every 16 Americans— are filed annually, five times more than reports of suspicious activity (SARs). This also means over a third of banks’ SARs are structuring SARs, diverting banks’ resources away from investigating real threats. Instead of requiring reporting on routine transactions, FinCEN should modernize the CTR rule to refocus on suspicious activity by limiting information banks must collect on their law-abiding customers and raising the CTR threshold to at least \$30,000. Likewise, state-licensed cannabis businesses should not require ongoing SAR reporting. Finally, the SAR and CTR forms are full of boxes, unread by law enforcement—but that pose compliance traps for banks. Eliminate these boxes, reduce CTR burden, and focus on suspicious activity.

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 their highest priority SARs for law enforcement to determine if they have identified real threats.

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 real threats.



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