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The U.S. Department of Treasury, Financial Crimes Enforcement Network Proposes New and Expansive Anti-Money Laundering Rules For Investment Advisers


The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has proposed new rules that would require anti-money laundering/countering the financing of terrorism (AML/CFT) programs for investment advisers.

The pdf is currently available, and will likely be replaced by the Federal Register version once published.  The final form of the rule, if adopted, remains to be determined, as does the compliance date.

The proposed rules would apply only to Securities and Exchange Commission (SEC)-registered investment advisers (RIAs) and exempt reporting advisers (ERAs) that file with the SEC. The rules would not apply to state-registered advisers, ERAs that only file with states (generally having assets under management below $25 million), advisers that are not required to file with the SEC or any state (most commonly, small advisers with few clients), foreign private advisers as defined by the SEC, and those excluded from the definition investment adviser, such as family offices as defined by the SEC. The rules would not apply to mutual funds.

Each RIA and each ERA that files with the SEC would be required to, among other things:

1. Adopt a risk-based AML/CFT program designed with reference to various provisions that have long applied to other financial institutions.
2. Submit suspicious activity reports (SARs) to FinCEN as well as report on certain transactions in currency and structured transactions, among others. (Note: Federal law generally prohibits any disclosure that a SAR or certain other reports have been submitted to FinCEN.)
3. Maintain specified records.

These programs would be subject to examination by FinCEN.

The proposed rules would not require the adoption of a customer identification program (CIP) but FinCEN expects to adopt investment adviser CIP rules jointly with the SEC.

Along with this proposal, the Department of Treasury issued a lengthy risk assessment of the Investment Adviser industry, highlighting perceived risks that the industry is being leveraged as a gateway into U.S. markets by sanctions evaders, corrupt government officials and U.S. adversaries such as Russia and the People's Republic of China as well as case studies demonstrating how these risks have played out in the industry in recent years.

## Authors

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