

Fried Frank International Trade and Investment *Alert*TM

FinCEN Issues Final Rule Extending AML and CIP Requirements to All Banks

On September 15, 2020, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) published a [final rule](#) extending the anti-money laundering (AML) and customer information program (CIP) requirements of the USA PATRIOT Act of 2001 to banks lacking a federal functional regulator. FinCEN is adopting its [2016 proposed rule](#) on AML and CIP requirements in substantially the same form. The rule will become effective on November 16, 2020, and banks have a grace period until March 15, 2021 to be in compliance with the new requirements. The rule also extends to all banks the customer due diligence (CDD) requirements that FinCEN [published](#) in May 2016.

The final rule removes the anti-money laundering program exemption for banks without a federal functional regulator, including, but not limited to, private banks, non-federally insured credit unions, non-federally insured state banks and savings and loan or building and loan associations, international banking entities, and certain trust companies.

AML and CDD Program Requirements

Under the new rule, non-federally regulated banks must create AML programs that incorporate, at a minimum:

- Internal policies, procedures, and controls to assure ongoing AML compliance;
- A designated individual responsible for monitoring and coordinating day-to-day compliance;
- Appropriate risk-based procedures for conducting ongoing customer due diligence;
- An ongoing training program for appropriate personnel; and
- Independent testing for compliance conducted by bank personnel or an outside party.

CIP Program Requirements

The rule requires non-federally regulated banks to comply with CIP requirements as well. The minimum program requirements are similar to those of federally regulated banks, and require inclusion of the following factors:

- Procedures to verify the identity of each new customer;

- Procedures for making and maintaining a record of all information obtained under the customer identification program;
- Procedures to screen potential customers against blocked persons lists; and
- Procedures to notify potential customers that the bank is requesting information for identity verification.

Banks have a six-month grace period to implement the appropriate measures necessary before they would be considered non-compliant. If you have any questions regarding the proposed rule and how it might affect your business, please reach out to the contacts listed below.

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This alert is not intended to provide legal advice, and no legal or business decision should be based on its content. If you have any questions about the contents of this alert, please call your regular Fried Frank contact or the attorneys listed below:

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