



News Bulletin

Date	August 11 th , 2017
Subject	Ten Months Before FinCEN Final Rule On Beneficial Ownership Becomes Mandatory

Ten (10) months left before FinCEN Final Rule On Beneficial Ownership become mandatory on May 11th 2018.

On May 16, 2016 The U.S. Treasury Department's Financial Crimes Enforcement Network – FinCEN - has finalized its long-awaited beneficial ownership rule, which it proposed in 2014. The regulation does two things. First, it extends Customer Due Diligence (CDD) requirements under Bank Secrecy Act (BSA) rules to the natural persons behind a legal entity. Second, the regulation adds a fifth pillar to the traditional “four pillars” of an effective anti-money laundering (AML) program by requiring covered financial institutions to establish risk-based procedures for conducting ongoing customer due diligence. As of **May 11, 2018**, entities subject to BSA will be required to identify and verify the identity of beneficial owners of legal entity customers at the time the customer opens a new account, subject to certain exclusions and exemptions, as well as develop risk profiles and conduct ongoing monitoring of customers.

A. The New Beneficial Ownership Final Rule

Beginning on **May 11, 2018**, covered financial institutions must do two things for all legal entity customers who open new accounts at the financial institution, unless an exception applies:

- 1) Identify the beneficial owners of the legal entity and
- 2) Verify the identity of the beneficial owners of the legal entity.

Who Does the Rule Apply to?

The final rule applies to “covered financial institutions,” which are those already subject to BSA Customer Identification Program (CIP) requirements. These generally include depository institutions, securities broker-dealers, mutual funds, and futures commission merchants and introducing brokers in commodities including smaller financial institutions as size alone is not a determinative factor for a risk assessment.

When the rule Apply to?

Consistent with the proposed rule, the final rule does not apply retroactively; it applies only to legal entity customers who open new accounts on or after the May 11, 2018, compliance date. The term “new account” is defined to include each account opened at a covered financial institution by that customer.

Who is a “Beneficial Owner”?

Under the new rule, a “beneficial owner” includes two types of individuals:

1. Any individual who, directly or indirectly, owns 25 percent or more of equity interest in the legal entity customer; and
2. A single individual who has “significant responsibility to control, manage, or direct a legal entity.”

B. Anti-Money Laundering Program Rule Amendments

The final rule also amends AML program requirements for each type of covered financial institution by adding the requirement that institutions implement **risk-based procedures** to conduct **ongoing customer**



due diligence, including understanding the nature and purpose of customer relationships to develop a customer risk profile.

According to FinCEN, an institution must develop a “**customer risk profile**” using the information the institution gathers about the customer at account opening and use that customer risk profile as a baseline against which the institution will assess future customer activity for potential suspicious activity reporting. For instance, the profile may include the type of customer or type of account, service, or product type. FinCEN also noted that the requirements of the rule “represent a floor, not a ceiling, and, consistent with the risk-based approach, financial institutions may do more in circumstances of heightened risk, as well as to mitigate risks generally.” In addition, the banking regulators may themselves impose their own supervisory requirements on the institutions they examine.

These AML program amendments will apply to all legal entity customers, including existing ones, as of **May 11, 2018**.

C. IV. Next Steps for Covered Entities

In preparation for the mandatory compliance date of May 11, 2018, financial institutions should evaluate their current identification, verification and monitoring processes to determine whether changes may be warranted and what employee training is needed. Covered institutions may also need to amend their BSA programs to include the new fifth pillar if the institution does not already conduct ongoing CDD as contemplated by the rule and document its procedures for doing so.

These actions will be critical to complying with the final rule upon its compliance date. It is also important to keep in mind that federal functional regulators may set their own, additional supervisory expectations, as with any other aspect of BSA/AML.

Final Rule Publication to Federal Register: [Customer Due Diligence Requirements for Financial Institutions](#)

If you have any questions please contact your Client Services or Relationship Manager or our Support Help Desk via e-mail to: sw.support@cubelq.gr.

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