



Statement for Non-Bank Financial Institutions on the Issuance of the Beneficial Ownership Information Access Rule

December 21, 2023

The U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) has issued a final rule (the “Access Rule”) regarding access by authorized recipients to beneficial ownership information (BOI) that will be reported to FinCEN, pursuant to section 6403 of the Corporate Transparency Act (CTA), and stored in the Beneficial Ownership Information Technology (BO IT) System.¹ Financial institutions subject to customer due diligence requirements are one category of authorized recipients of BOI. FinCEN² is issuing this statement to provide clarity for non-bank financial institutions (NBFIs)³ on the Access Rule.

The Access Rule does not create a new regulatory requirement for NBFIs to access BOI from the BO IT System or a supervisory expectation that they do so. Therefore, the Access Rule does not necessitate changes to Bank Secrecy Act (BSA)/anti-money laundering (AML) compliance programs designed to comply with the existing Customer Due Diligence rule (the “current CDD Rule”)⁴ and other existing BSA requirements, such as customer identification program requirements⁵ and suspicious activity reporting.⁶ However, any access to and use of BOI obtained from the BO IT System must comply with the requirements of the CTA and the Access Rule.

To date, FinCEN has issued two rules—and will be issuing a third rule—to implement the CTA. The first rule regarding the reporting of BOI to FinCEN (the “Reporting Rule”)

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1. FinCEN, *Beneficial Ownership Information Access and Safeguards*, available at <https://www.federalregister.gov/public-inspection/2023-27973/beneficial-ownership-information-access-and-safeguardsster::Public-Inspection:Beneficial-Ownership-Information-Access-and-Safeguards>. The regulations will be codified at 31 CFR § 1010.955. The CTA was enacted into law as part of the Anti-Money Laundering Act of 2020 (the “AML Act”), which was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, H.R. 6395, 116th Cong. (2021) (enrolled bill available at <https://www.govinfo.gov/content/pkg/BILLS-116hr6395enr/pdf/BILLS-116hr6395enr.pdf>).
 2. FinCEN consulted with the staff of the U.S. Securities and Exchange Commission and the Commodity Futures Trading Commission in developing this statement.
 3. See 31 CFR §§ 1023.210 (brokers or dealers in securities); 1024.210 (mutual funds); and 1026.21 (futures commission merchants and introducing brokers in commodities).
 4. 31 CFR § 1010.230, 81 FR 29398 (May 11, 2016).
 5. 31 CFR §§ 1023.220; 1024.220; and 1026.220.
 6. 31 CFR §§ 1023.320; 1024.320; and 1026.320.

was issued on September 30, 2022.⁷ The second rule is the Access Rule, which governs access to and use of BOI. The third rule, which has not yet been proposed, will revise the current CDD Rule. In particular, the CTA directs FinCEN to revise the current CDD Rule to: (i) bring it into conformity with the AML Act of 2020, including the CTA; (ii) account for financial institutions' access to BOI reported to FinCEN so financial institutions may confirm BOI provided directly to them for the purpose of facilitating their compliance with AML, countering the financing of terrorism, and customer due diligence requirements; and (iii) reduce any burdens on financial institutions and legal entity customers that are, in light of the CTA, unnecessary or duplicative.⁸

7. FinCEN, *Beneficial Ownership Reporting Requirements*, 87 FR 59498 (Sept. 30, 2022), available at <https://www.federalregister.gov/documents/2022/09/30/2022-21020/beneficial-ownership-information-reporting-requirements>.

8. CTA, Section 6403(d)(1)(A)-(C).