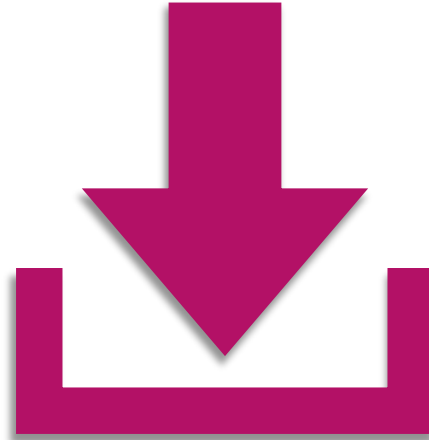


# New AML Requirements for Investment Advisers



# Download Our Slides

[\*\*https://www.ria-compliance-consultants.com/aml\*\*](https://www.ria-compliance-consultants.com/aml)



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# Investment Adviser Rep Continuing Education

This Course Has Been  
Approved by NASAA For 1  
Hour of IAR CE Under Ethics  
Category

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- ▶ **Login** - You must be logged in during the presentation under your email address.
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# Content Questions & Technical Help

If you have questions about the content of this course or need technical help, please contact us via the email address below:

[ContEd@ria-compliance-consultants.com](mailto:ContEd@ria-compliance-consultants.com)

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# Course Overview

- ▶ Introduction & Background
- ▶ Covered & Excluded Adviser & Clients
- ▶ Key Requirements
  - AML/CTF Program
  - Suspicious Activity Report
  - Other Required Reports
- ▶ Compliance Date & Regulator
- ▶ Q&A



# Limitations & Exclusions

Merely An Introduction To FinCEN's New  
AML/CTF Rule For Investment Advisers



Limited To A Summary of Key Requirements  
At High Level



Several Specific Requirements Or Exceptions  
Are Not Covered During Course

# Regulatory Resources

Final Rule of Financial Crimes Enforcement Network (FinCEN) of U.S. Treasury Department:

Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers

<https://www.federalregister.gov/documents/2024/09/04/2024-19260/financial-crimes-enforcement-network-anti-money-launderingcountering-the-financing-of-terrorism>

# Outline of New AML/CTF Rule

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**Includes Certain Investment Advisers In  
Definition Of “Financial Institution” Under  
Bank Secrecy Act (BSA)**

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**Prescribes Minimum Standards For Anti-  
Money Laundering/Countering Financing  
Of Terrorism (AML/CFT) Programs To Be  
Established By Certain Investment Advisers**

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**Require Certain Investment Advisers To  
Report Suspicious Activity To FinCEN**

# Purpose of AML/CTF Rule

Aims To Help Safeguard Investments In United States & Prevent Criminals And Other Illicit Actors From Laundering Money Through U.S. Financial System

Sanctioned Persons, Corrupt Officials, Fraudsters, And Other Criminals Have Exploited The Investment Adviser Industry To Access The U.S. Financial System And Launder Funds Due to Gap in Anti-Money Laundering Requirements

Foreign States (e.g., People's Republic Of China, Russian Federation) Leverage Investment Advisers And Their Advised Funds Through Investment In Early-Stage Companies To Access Certain Technologies And Services With National Security Implications

Provide Highly Useful Information To Law Enforcement & National Security Agencies

# Covered Investment Advisers

- ▶ SEC Registered Investment Advisers
- ▶ Exempt Reporting Advisers Exempt From Registering Under Section 203(m)
- ▶ Venture Capital Fund Advisers Exempt From Registering Under Sect. 203(l)



# Excluded Investment Advisers

- ▶ State-Registered Investment Advisers
- ▶ SEC Registered Investment Advisers Which Do Not Report AuM on Form ADV
- ▶ SEC Registered Investment Advisers Which Register With SEC Solely Due
  - Mid-Sized Adviser (\$25M - \$100M) or
  - Multi-State Adviser or
  - Pension Consultant
- ▶ Advisers Qualifying for Foreign Private Adviser Exemption
- ▶ Family Office Advisers Not Required to Register with SEC

# Sub-Advisory Activities Excluded

An Investment Adviser (Acting As Sub-Adviser) May Exclude From Its AML/CFT Program Another Covered Investment Adviser (The Primary Adviser) To Which It Provides Sub-Advisory Services Where The Sub-Adviser Has A Direct Contractual Relationship With The Primary Adviser And Not With The Underlying Customer Of That Primary Adviser



An Investment Adviser May Also Be Able To Exclude Wrap-Fee Programs, Separately Managed Accounts, Or Other Advisory Relationships, So Long As The Customer Is Another Investment Adviser And The Adviser Does Not Have A Direct Contractual Relationship With The Underlying Customer Of The Other Investment Adviser

# Foreign Located Investment Adviser Registered with SEC

- ▶ Principal Place of Business Located Outside U.S.
- ▶ Rule Applies Only To
  - Advisory Activities That Take Place In The United States Or
  - That Involve Providing Services To US Persons Or
  - Foreign-Located Private Funds With An Investor That Is A US Person

Rule Doesn't  
Require  
AML/CTF  
Program to Be  
Run In US

*Final Rule Does **Not** Include  
Duty To Establish, Maintain,  
And Enforce AML/CFT Program  
By Persons In United States*

# Excluded Clients

Open-End Mutual Funds

Collective Investment Funds  
And

Other Advisers That Are Advised  
By The Covered Adviser Subject  
Their Own AML/CFT Programs



# AML/CFT Program

*Risk-Based And Reasonably Designed  
To Prevent Investment Adviser From  
Being Used For Money Laundering,  
Terrorist Financing, Or Other Illicit  
Finance Activities*

# Minimum Requirements For AML/CFT Program

- ▶ Implement Policies, Procedures & Controls
  - To Prevent Investment Adviser From Being Used For Money Laundering, Terrorist Financing, Or Other Illicit Finance Activities And
  - To Achieve Compliance With Bank Secrecy Act & This Rule
- ▶ Provide For Independent Testing For Compliance To Be Conducted By Investment Adviser Or By Qualified Outside Party
- ▶ Designate Person(s) Responsible For Implementing And Monitoring Program's Operations & Internal Controls
- ▶ Provide Ongoing Training For Appropriate Persons
- ▶ Implement Risk-Based Procedures For Conducting Ongoing Customer Due Diligence

# Implementing Procedures for Conducting Ongoing Customer Due Diligence Which Includes



1

Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and



2

Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

# File Suspicious Activity Report (SAR) With FinCEN

Transaction Involving (Or Aggregates) At Least \$5,000 And Investment Adviser Knows, Suspects or Has Reason to Suspect Transaction (Or Pattern of Transactions)

- ▶ Involves Funds Derived From Illegal Activity Or Is Intended To Hide/Disguise Funds Or Assets From Illegal Activity (Including, Without Limitation, The Ownership, Nature, Source, Location, Or Control Of Such Funds Or Assets) As Part Of Plan To Violate Or Evade Any Federal Law Or Regulation Or To Avoid Any Transaction Reporting Requirement,
- ▶ Is Designed, Whether Through Structuring Or Other Means, To Evade Any Requirements Of Bank Secrecy Act
- ▶ Has No Business Or Apparent Lawful Purpose Or Is Not The Sort In Which The Particular Customer Would Normally Be Expected To Engage, And Investment Adviser Knows Of No Reasonable Explanation For Transaction, Or
- ▶ Involves Use Of Investment Adviser To Facilitate Criminal Activity

## Deadline for Filing SAR

SAR Shall Be Filed With FinCEN No Later Than 30 Calendar Days After Date Of Initial Detection By Investment Adviser Of The Facts

If No Suspect Is Identified On The Date Of Such Initial Detection, Investment Adviser May Delay Filing A SAR For An Additional 30 Calendar Days To Identify A Suspect

If Immediate Attention Is Required, Investment Adviser Shall Immediately Notify By Telephone Law Enforcement Authority In Addition To Filing A SAR



# SARs – Retention Requirement

Investment Adviser Shall Maintain A Copy Of Any SAR Filed By Investment Adviser (Or On Its Behalf) And Original Of Any Supporting Documentation Concerning SAR For A Period Of 5 Years From Date Of Filing SAR

## Confidentiality of SARs

*In General (Subject to Certain Exceptions), **No** Investment Adviser (And No Current Or Former Director, Officer, Employee, Or Agent Of Investment Adviser) Shall Disclose A SAR Or Any Information That Would Reveal The Existence Of A SAR*

# Currency Transaction Report



**Investment Advisers Will Be Required To File A Currency Transaction Report (CTR) For Certain “Transactions In Currency” Equal To Or Greater Than \$10,000 With FinCEN**

# Recordkeeping & Travel Rules

- ▶ Investment Advisers Will Be Subject The Recordkeeping And Travel Rules Requiring Investment Advisers To Obtain And Retain Originator And Beneficiary Information For Certain Transactions  $\geq$  \$3,000 And Pass On This Information To Financial Institutions In Certain Funds Transmittals
- ▶ Where Investment Adviser's Customer Has A Direct Account Relationship With A Qualified Custodian Subject To AML/CFT Requirements (e.g., Bank, Broker-Dealer) And Requests Such Qualified Custodian Initiate A Funds Transfer, **The Adviser Would Generally Not Be Required To Comply** With The Requirements Of The Recordkeeping And Travel Rules

# Responding to Section 314 Requests

**Investment Advisers Required To Respond  
To Law Enforcement Requests, Pursuant  
To Section 314(A) Of The USA PATRIOT  
Act, To Locate Accounts And  
Transactions Of Persons That May Be  
Involved In Terrorism Or Money  
Laundering**

# Customer Identification Program



Does Not Require Covered Advisers To Implement A Customer Identification Program Or To Collect Beneficial Ownership For Legal Entity Customers



Subject To A Separate Joint Rulemaking With The SEC, Which Has Not Yet Been Adopted



FinCEN & SEC Have Proposed Rule Requiring Covered Advisers To Establish, Document, And Maintain A Written Customer Identification Program (CIP) With Certain Procedural Verification Requirements

# Compliance Date

- ▶ FinCEN Delayed The Compliance Date
- ▶ Covered Adviser Will Need To Develop AML/CFT Compliance Program No Later Than January 1, 2026
- ▶ Private Fund Advisers May Need to Update Partnership/Membership Agreement & Subscription Materials



# Regulator

- ▶ FinCEN Delegated Exam Authority To SEC
- ▶ Covered Advisers Can Expect Compliance With AML/CTF Rule Will Be A Main Focus In Future SEC Exams



# Questions

Please submit any question online or email with any questions about the content of this course.

[ContEd@ria-compliance-consultants.com](mailto:ContEd@ria-compliance-consultants.com)



Thank You

