



February 20, 2012

FINCEN ADOPTS NEW ANTI-MONEY LAUNDERING AND SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR NON-BANK MORTGAGE LENDERS

The Financial Crimes Enforcement Network (FinCEN) has issued final rules requiring non-bank residential mortgage lenders and originators (RMLOs) to establish anti-money laundering (AML) programs and file suspicious activity reports (SARs). The final rules are based on a proposal issued in December 2010, which FinCEN now adopts with a few minor exceptions. See *Alert* dated December 13, 2010.

The Bank Secrecy Act (BSA) and its implementing regulations require specified "financial institutions" to establish and maintain AML programs and report activity that might signify money laundering, tax evasion or other criminal activities, among other things.

"Financial institution" is broadly defined in the BSA regulations but several categories of "financial institutions" have been exempted by regulation from compliance with the AML program and SAR requirements. The exempted businesses include "loan or finance companies." See *Alerts* dated October 30 and November 1, 2002.

The final rules amend the BSA regulations to define "loan or finance company" to include RMLOs and add new provisions setting forth AML and SAR requirements for such entities. FinCEN indicated that it may expand the definition of "loan or finance company" in the future.

The rule is effective April 16, 2012, with a mandatory compliance date of August 13, 2012.

Do not hesitate to contact us if you would like more information on applicability of the proposed rule to your organization or compliance with existing AML or SAR requirements.

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