

MEMO# 31162

April 11, 2018

FinCEN Issues New Customer Due Diligence FAQs; OFAC Issues Cryptocurrency FAQs

[31162]

April 11, 2018 TO: ICI Members SUBJECTS: Anti-Money Laundering
Compliance
Operations

Transfer Agency RE: FinCEN Issues New Customer Due Diligence FAQs; OFAC Issues
Cryptocurrency FAQs

The Financial Crimes Enforcement Network (FinCEN) issued additional FAQs related to its customer due diligence (CDD) rules last week.[\[1\]](#) FinCEN issued the CDD rules for financial institutions (including mutual funds) in May 2016.[\[2\]](#) The CDD rules require financial institutions to identify beneficial owners of “legal entity customers” (e.g., entities such as corporations and LLCs). The rules also make explicit financial institutions’ obligations with respect to (i) understanding the nature and purpose of customer relationships, and (ii) conducting ongoing monitoring and updating customer information. The compliance date is May 11, 2018.

These latest FAQs address, among other topics, beneficial ownership thresholds; direct and indirect ownership; identification and verification of beneficial owners; collection and updates of beneficial ownership information; trusts as beneficial owners; exclusions from the “legal entity customer” definition; exemptions from the requirement to identify and verify beneficial owners; the relationship between the CDD rules and currency transaction report (CTR) responsibilities; and documentation and use of “nature and purpose of customer relationships” information.

In March, the Office of Foreign Assets Control (OFAC) issued several FAQs on virtual currency.[\[3\]](#) Among other things, the FAQs define several terms (i.e., “virtual currency,” “digital currency,” “digital currency wallet,” and “digital currency address”); clarify that a U.S. person’s OFAC obligations are the same, regardless of whether a transaction is denominated in digital currency or traditional fiat currency; note that OFAC may include as identifiers on its Specially Designated Person (SDN) List specific digital currency addresses associated with blocked persons; and explain how parties should respond if they identify digital currency identifiers or wallets that they believe are owned by, or otherwise associated with, an SDN and hold such property.

Matthew Thornton
Assistant General Counsel

Joanne Kane
Director, Operations & Transfer Agency

endnotes

[1] Available at www.fincen.gov/sites/default/files/2018-04/FinCEN_Guidance_CDD_FAQ_FINAL_508_2.pdf. FinCEN had issued a previous set of FAQs in July 2016, available at www.fincen.gov/sites/default/files/2016-09/FAQs_for_CDD_Final_Rule_%287_15_16%29.pdf.

[2] *Customer Due Diligence Requirements for Financial Institutions*, Financial Crimes Enforcement Network, 81 Fed. Reg. 29398 (May 11, 2016), available at www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf. See Institute [Memorandum No. 29914](#), dated May 16, 2016, for background and a detailed summary of the CDD rules.

[3] Available at www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_compliance.aspx.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.