ALERT MEMORANDUM

FinCEN Extends Deadline for Investment Advisers to Comply with AML Program and SAR Filing Requirements

January 16, 2026

As of December 31, 2025, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") delayed the effective date of a final rule (the "Final Rule")[1] that would have required most investment advisers registered with the Securities and Exchange Commission ("SEC") (SEC-registered investment advisers or "RIAs") and exempt reporting advisers ("ERAs") to adopt Anti-Money Laundering ("AML") / Countering the Financing of Terrorism ("CFT") compliance programs pursuant to the Bank Secrecy Act (the "BSA") by January 1, 2026.[2] Pursuant to the delay order, covered investment advisers will have an additional two years, until January 1, 2028, to develop and implement an AML/CFT Program.[3] In issuing this delay, FinCEN also indicated that it will undertake a broader review of the Final Rule, which could result in reduced burdens on covered investment advisers, as well as revisit the proposed rule to apply requirements to maintain a customer identification program on covered investment advisers released jointly by FinCEN and the SEC on May 21, 2024.[4]

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors:

Michael Sanders
+1 202 974 1894
msanders@cgsh.com

Amber Phillips
+1 202 974 1548
avphillips@cgsh.com

Ana Carolina Maloney
+1 202 974 1621
amaloney@cgsh.com

Daniel Vicente Alayo-Matos
+1 212 225 2408
dalayomatos@cgsh.com

[1] 89 Fed. Reg. 72, 156 (Sept. 4, 2024), *available* here.
[2] For additional detail on the Final Rule, please see our Alert Memorandum, *available* here.
[3] 91 Fed. Reg. 36, 41 (Jan. 2, 2026), *available* here.
[4] *See* 89 Fed. Reg. 44571 (May 21, 2024), *available* here.

The Final Rule

Pursuant to the Final Rule, most RIAs and ERAs ("Covered Advisers") would be subject to AML/CFT program obligations similar to those applicable to banks and broker-dealers under the BSA and would be directly subject to AML/CFT examination (and potential enforcement) by the SEC and FinCEN for the first time. FinCEN estimates the Final Rule would have covered approximately 14,000 RIAs and 6,000 ERAs that collectively manage a total of $119 trillion in assets and have 861,000 employees, including many advisers that are located outside the United States but have registered (or file reports) with the SEC because they have U.S. advisory clients, U.S. investors or otherwise conduct advisory activities in the United States.

Pursuant to the Final Rule, any AML/CFT program should include, at a minimum, the following features the BSA requires of all financial institutions subject to AML/CFT program obligations:

- Policies, procedures and internal controls reasonably designed to prevent the Covered Adviser from being used for money laundering or the financing of terrorist activities and to achieve and monitor compliance with applicable provisions of the BSA and FinCEN's implementing regulations;
- Periodic independent testing of the program by independent internal personnel (e.g., an audit function) or a qualified unaffiliated service provider;
- Designation of an AML compliance officer or committee (which could be the Covered Adviser's Chief Compliance Officer or another person or committee);
- An ongoing employee training program; and
- Implementation of appropriate risk-based procedures for conducting ongoing customer due diligence, including:
    - Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and
    - Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

The Final Rule does not include the specific requirements to maintain a customer identification program ("CIP") or identify beneficial owners of legal entity customers (the "CDD Rule") that many other BSA-regulated financial institutions, such as banks and broker-dealers, must currently satisfy. These requirements have been deferred pending other rulemakings.

FinCEN to Review the Final Rule During Delay Period

Commentators were divided on the delay in effective date. Supporters cited "the significant time and resources needed to establish an AML compliance program" [5] and the risk of creating "inefficient and costly programs." [6] However, other commentors "strongly opposed" the two-year delay. Transparency organizations highlighted the "heightened risk of illicit finance" and argued that a delay "might be exploited by sanctioned actors, terrorist organizations, corrupt officials, and foreign adversaries."[7]

Ultimately, FinCEN chose to move forward with the delay to promote "the Administration's deregulatory policies focused on reducing any unnecessary or duplicative regulatory burden on Americans," noting that the new rule should be reviewed to "ensure it strikes an appropriate balance between cost and benefit." [8] FinCEN indicated that it will undertake "a broader review of the [Final Rule]," to ensure it "is effectively tailored to the diverse business models and risk profiles of the investment adviser sector—while still adequately protecting the U.S. financial system and guarding

[5] 91 Fed. Reg. at 37.
[6] *Id*.
[7] *Id*.
[8] *Id*.

against money laundering, terrorist financing and other illicit finance risks."[9]

Going Forward

- Covered Advisers should stay abreast of developments and be prepared for FinCEN to solicit comments for additional substantive changes to the obligations under the Final Rule.
- By formalizing this two year delay in implementation, FinCEN offers Covered Advisers additional time to implement AML/CFT programs. However, changes to the Final Rule appear likely, meaning that the expected requirements under the Final Rule and any accompanying rule on CIP remain unsettled. As a result, Covered Advisers may consider continuing progress on basic compliance items that are unlikely to change while de-emphasizing precise changes determined through specific gap analyses against the Final Rule.

Cleary's Financial Institutions Group is tracking the delay and review of the Final Rule and is available to help clients navigate the new AML/CFT compliance framework and prepare for implementation.

[9] *Id*. at 37-38.