



January 31, 2025

*Via Electronic Transmission*

Andrea M. Gacki  
Director  
Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

**Re: Anti-Money Laundering, Counter-Terrorism Financing, and Customer Identification Programs for Investment Advisers**

Dear Ms. Gacki:

The Investment Adviser Association (**IAA**)<sup>1</sup> appreciates the opportunity to share the concerns of our members regarding new regulations related to anti-money laundering (**AML**), counter-terrorism financing, and customer identification programs (**CIP**) for investment advisers. Specifically, the Treasury Department's Financial Crimes Enforcement Network (**FinCEN**) has finalized new AML compliance requirements for advisers, which will take effect on January 1, 2026 (**AML Rule**).<sup>2</sup> In addition, FinCEN and the Securities and Exchange Commission (**SEC**) have jointly proposed to require certain investment advisers to implement procedures for verifying customer identities through a CIP (**CIP Proposal**).<sup>3</sup>

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<sup>1</sup> The IAA is the leading organization dedicated to advancing the interests of fiduciary investment advisers. For more than 85 years, the IAA has been advocating for advisers before Congress and U.S. and global regulators, promoting best practices and providing education and resources to empower advisers to effectively serve their clients, the capital markets, and the U.S. economy. Our members range from global asset managers to the medium- and small-sized firms that make up the majority of our industry. Together, the IAA's member firms manage more than \$35 trillion in assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information, please visit [www.investmentadviser.org](http://www.investmentadviser.org).

<sup>2</sup> See *FinCEN: Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers*, 89 Fed. Reg. 72156 (Sept. 4, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-09-04/pdf/2024-19260.pdf> (**AML Final Rule Release**).

<sup>3</sup> See *FinCEN and SEC: Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, 89 Fed. Reg. 44571 (May 21, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-05-21/pdf/2024-10738.pdf>.

As emphasized in our comment letters on these regulations,<sup>4</sup> we firmly support the U.S. government's efforts to combat money laundering and terrorist financing across all facets of the financial system. We have a number of concerns, however, with the final AML Rule and the CIP Proposal both substantively and procedurally. From a procedural perspective, the comment period for the CIP Proposal ended before FinCEN finalized the AML Rule.<sup>5</sup> Consequently, our members did not have the opportunity to review the related CIP Proposal in the context of the final AML Rule.

Pursuant to the recent Presidential action authorizing federal agencies to freeze rulemakings pending review,<sup>6</sup> the IAA urges FinCEN to work with the SEC to reopen the comment periods for the AML Rule and the related joint FinCEN/SEC CIP Proposal.

The Regulatory Freeze Memorandum directs federal agencies to stop all rulemaking activity pending within the agency and to consider all rules already published but not yet effective as paused for 60 days. The AML Rule has been published in the *Federal Register* but has not taken effect.<sup>7</sup> In addition, the CIP Proposal has not been finalized. We thus recommend that FinCEN delay the effective date of the AML Rule and subject the rule to an additional comment period. We also recommend that FinCEN and the SEC reopen the CIP Proposal so that commenters can consider the CIP Proposal and the AML Rule together.

The AML Rule (as modified by changes made in response to comments during the reopened comment period) should not go into effect until the CIP Proposal is finalized and the compliance dates of both rules should coincide so that advisers will not have to establish new AML programs only to have to modify them once any CIP rule is adopted. In fact, since critical component parts of an AML program will not be in place without a final CIP rule, requiring compliance with the AML Rule before a CIP rule is finalized defeats the AML Rule's stated objective of having advisers reasonably design and implement risk-based AML programs, and imposes undue and unnecessarily costly burdens on advisers. FinCEN has publicly

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<sup>4</sup> See IAA comments on CIP proposal for advisers (July 22, 2024), available at <https://www.investmentadviser.org/wp-content/uploads/2024/07/Investment-Adviser-Association-CIP-for-Advisers-Letter-Final.pdf?t=669e5969baf98>. See also IAA comments on AML proposal for advisers (April 15, 2024), available at <https://www.investmentadviser.org/wp-content/uploads/2024/04/Investment-Adviser-Association-AML-for-Advisers-Letter.pdf?t=6618369214292>.

<sup>5</sup> The comment period for the CIP Proposal closed on July 22, 2024, before the AML Rule was finalized on August 28, 2024.

<sup>6</sup> See Presidential Memorandum, *Regulatory Freeze Pending Review* (Jan. 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/> (**Regulatory Freeze Memorandum**).

<sup>7</sup> The effective date of the AML Rule and the compliance date are both January 1, 2026.

acknowledged these difficulties and committed to collaborate with the SEC to harmonize the related rules and align compliance timetables.<sup>8</sup>

From a substantive perspective, reopening the comment periods will allow us to address, among other concerns, the substantial interpretive and implementation challenges advisers are facing under the new AML Rule and anticipate under the CIP Proposal. These include, for example, that advisers: (i) will need to allocate significant time and resources to establishing an AML program even if their business and operations present little or no AML risk; (ii) do not have physical custody of client assets and do not transact in cash for clients thus unnecessarily duplicating the efforts of the qualified custodians that hold the advisory clients' assets; (iii) that had previously voluntarily adopted AML policies and procedures will be required to set up new systems and/or processes to track the specific requirements of the new rule (*e.g.*, to include transaction monitoring and the filing of SARs); (iv) will face significant expenses to hire personnel or retain consulting resources to comply with the new AML compliance officer and independent testing requirements; and (v) lack clarity on how to rely on or contractually delegate a required function to a third party, especially since most advisers lack the leverage to negotiate with service providers.

The IAA strongly recommends tailoring the scope of combined requirements to better achieve an appropriate balance between having an effective regulatory regime to combat illicit finance while minimizing duplication and unnecessary burdens on advisers, especially when these burdens arise without a corresponding benefit for the reduction in illicit finance. We look forward to working with FinCEN and the SEC to address our members' concerns.

In sum, we request that FinCEN and the SEC work together to: (i) reopen the AML Rule and the CIP Proposal; (ii) postpone the AML Rule compliance date until after a CIP rule is finalized to align the compliance dates of both rules;<sup>9</sup> and (iii) provide a reasonable compliance

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<sup>8</sup> FinCEN delegated examination authority under the rule to the SEC and explicitly recognized that the SEC may need "to provide regulatory guidance or analysis related to the final rule." *See* AML Final Rule Release at 72238-9. "FinCEN recognizes and has considered the potential challenges that may arise with multiple rulemaking processes that could affect investment advisers' AML/CFT requirements. As such, FinCEN intends to carefully coordinate on these rulemakings to ensure consistency in how investment advisers, as well as other financial institutions, are treated under these rules. Regarding CIP, as noted above, FinCEN and the SEC intend to align the compliance dates for both AML/CFT Program and SAR Rule as well as a potential final CIP rule." AML Final Rule Release at 72208.

The challenges are exacerbated by potential amendments to the related customer due diligence (**CDD**) rule. Under the 2022 Corporate Transparency Act (**CTA**), FinCEN must revise its CDD rule to conform with the CTA, and FinCEN has included CDD amendments on its most recent regulatory agenda. The CTA is currently being challenged in court, however, creating substantial uncertainty as to the status of any CDD amendments. FinCEN has also publicly committed to "considering how any such revisions may impact investment advisers and, as required by the Corporate Transparency Act, intends to issue a notice of proposed rulemaking, which would be subject to public comment. FinCEN will continue to coordinate with the SEC on these and other rulemakings." *Id.*

<sup>9</sup> We also recommend delaying implementation of the AML Rule (and any final CIP rule) until the courts have provided greater clarity on the CTA. Separately, we appreciate that investment advisers will need to be defined as "financial institutions" under the Bank Secrecy Act before CIP and CDD requirements can be applied. However, we do not view this as restricting the ability of these interrelated requirements to be considered together.

period for both rules, better tailored to avoid unnecessary duplication and to the business models and resources of advisers, including their level of AML risk. Specifically, we suggest an extension of 18 months for larger advisers and 24 months for smaller advisers with 100 or fewer employees.<sup>10</sup> For the sake of clarity and to assist our members in their planning efforts, we also request that the agencies explicitly confirm that the compliance date for the AML Rule will no longer be January 1, 2026.<sup>11</sup>

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We look forward to continuing our constructive engagement during the transition period and beyond. Please do not hesitate to contact us if we can provide any additional information.

Respectfully,

/s/ Karen L. Barr

Karen L. Barr  
President & CEO

/s/ Gail C. Bernstein

Gail C. Bernstein  
General Counsel and Head of Public Policy

cc: The Honorable Mark T. Uyeda, Acting Chair, SEC  
The Honorable Hester M. Peirce, Commissioner, SEC  
The Honorable Caroline A. Crenshaw, Commissioner, SEC  
Natasha Vij Greiner, Director, Division of Investment Management, SEC  
Chandana Ravindranath, Counselor to the Under Secretary for Terrorism and Financial Intelligence and Head of Strategic Illicit Finance Initiatives for the Department of the Treasury

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<sup>10</sup> FinCEN has explicitly acknowledged that these new requirements will impose a disproportionately greater operational and compliance burden on smaller advisers. We continue to believe that the agencies should – and we hope to work with them to – grant relief for all or certain aspects of the rules for smaller advisers. Even with exclusions, FinCEN will be able to monitor activity involving these entities “for indicia of the risks of” money laundering, terrorist financing, or other illicit finance activities and “consider regulatory measures if appropriate.” See AML Final Rule Release, 89 Fed. Reg. 72156, at 72178.

<sup>11</sup> Alternatively, we ask for confirmation that enforcement of the AML Rule will not begin on that date.