

# FinCEN Proposes Rule to Combat Illicit Finance and National Security Threats in Investment Adviser Sector

**Immediate Release:** February 13, 2024

WASHINGTON—Today, the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) issued a Notice of Proposed Rulemaking (NPRM) (</resources/statutes-regulations/federal-register-notices/anti-money-laundering-counter-finance>) to keep criminals and foreign adversaries from exploiting the U.S. financial system and assets through investment advisers. This proposed rule, which complements Treasury’s other recent actions to combat the illicit finance risks from anonymous companies and all-cash real estate transactions, will add further transparency to the U.S. financial system and help assist law enforcement in identifying illicit proceeds entering the U.S. economy.

The proposed rule would require certain investment advisers to apply Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) requirements pursuant to the Bank Secrecy Act (BSA), including implementing risk-based AML/CFT programs, reporting suspicious activity to FinCEN, and fulfilling recordkeeping requirements. Treasury today also published its risk assessment of this sector (<https://home.treasury.gov/system/files/136/US-Sectoral-Illicit-Finance-Risk-Assessment-Investment-Advisers.pdf>), which identifies illicit finance threats and vulnerabilities in the sector, including how the uneven application of AML/CFT requirements across the sector allows both legitimate and illicit investors to “shop around” for an adviser who does not need to inquire into their source of wealth.

“Investment advisers are important gatekeepers to the American economy, overseeing the investment of tens of trillions of dollars. The current patchwork of AML/CFT requirements creates regulatory gaps that criminals and foreign adversaries exploit to launder money, hide illicit wealth, and compromise American innovation,” said FinCEN Director Andrea Gacki. “This proposed rule would level the regulatory playing field, protect U.S. economic and national security, and safeguard American businesses.”

The proposed rule would add investment advisers to the list of businesses classified as “financial institutions” under the BSA. Investment advisers registered with the Securities and Exchange Commission (SEC), as well as those that report to the SEC as exempt reporting advisers, would be required to implement AML/CFT programs. They would also be required to file suspicious activity reports, fulfill certain recordkeeping requirements, and fulfill other obligations applicable to financial institutions subject to the BSA and FinCEN’s implementing regulations.

The proposed rule would also apply information-sharing provisions between and among FinCEN, law enforcement government agencies, and certain financial institutions, along with special measures that have been applied under Section 311 of the USA PATRIOT Act. Finally, FinCEN is proposing to delegate examination authority for this rule to the SEC given the SEC’s expertise in the regulation of investment advisers and experience in examining other financial institutions with respect to AML/CFT responsibilities.

The proposed rule builds on the 2021 *U.S. Strategy on Countering Corruption* (<https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>), which recommended that Treasury assess the risks posed by the investment adviser industry, and to reexamine a 2015 NPRM that similarly proposed to extend AML/CFT requirements to certain investment advisers. Recognizing the importance of the investment adviser sector to legitimate investors and the U.S. economy, the proposed rule is tailored towards addressing material risks and strengthening financial transparency while minimizing potential business burden as much as possible.

FinCEN strongly encourages the public to submit written comments in response to the proposed rule. Comments will be accepted until April 15, 2024.

[Fact Sheet: Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers Notice of Proposed Rulemaking](/news/news-releases/fact-sheet-anti-money-laundering-program-and-suspicious-activity-report-filing) (</news/news-releases/fact-sheet-anti-money-laundering-program-and-suspicious-activity-report-filing>).

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