

Banking and Finance Law Daily Wrap Up, BANK SECRECY ACT—Agencies clarify BSA due diligence requirements for banking services offered to charities and non-profits, (Nov. 20, 2020)

Banking and Finance Law Daily Wrap Up

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The agencies' joint fact sheet explains there is no regulatory requirement for additional due diligence steps for charities or other non-profits and provides some considerations that may be useful when determining customer risk profiles.

The Office of the Comptroller of the Currency, Federal Reserve Board, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, and National Credit Union Administration have announced a [joint fact sheet](#) clarifying how banks may provide services to charities and other nonprofit organizations (NPOs) consistent with FinCEN's risk-based approach for conducting customer due diligence. FinCEN's 2016 Customer Due Diligence (CDD) rule does not create a regulatory requirement for banks to have additional due diligence steps for charities or other NPOs. The fact sheet provides considerations that may be useful to banks when determining the customer risk profile of a charity or other NPO. The joint fact sheet does not alter existing Bank Secrecy Act/Anti-Money Laundering (BSA/AML) requirements, nor does it establish new supervisory expectations.

The OCC issued a bulletin ([OCC Bulletin 2020-101](#)) announcing the "Joint Fact Sheet on Bank Secrecy Act Due Diligence Requirements for Charities and Non-Profit Organizations." The Board issued a supervision and regulation letter to all Federal Reserve Banks ([SR 20-26](#)), announcing and distributing the fact sheet. The FDIC issued a Financial Institution Letter ([FIL-106-2020](#)) announcing the fact sheet.

The fact sheet explains that some charities have reported difficulty in obtaining and maintaining access to financial services. The U.S. government does not view the charitable sector as a whole as presenting a uniform or unacceptably high risk of being used or exploited for money laundering, terrorist financing (ML/TF), or sanctions violations. Like all bank accounts, those held by charity and NPO customers are subject to BSA/AML regulatory requirements. Banks must adopt appropriate risk-based procedures for conducting CDD that enable banks to: understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile, and conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information. The level and type of CDD should be appropriate for the risks presented by each customer. The ML/TF risk for charitable organizations can vary dramatically depending on the operations, activities, leadership, and affiliations of the organization. U.S. charities that operate and provide funds solely to domestic recipients generally present low TF risk. However, U.S. charities that operate abroad, provide funding to, or have affiliated organizations in conflict regions, can present potentially higher TF risks. Although the CDD rule does not require the collection of this specific information, the fact sheet lists types of customer information that may be useful for banks in determining the ML/TF risk profile of charities and other NPO customers, such as purpose of the NPO, organizational structure, financial statements, general information about the donor base, and affiliation with other NPOs or governments.

RegulatoryActivity: BankingOperations BankSecrecyAct FederalReserveSystem

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