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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Parts 1010 and 1024

[Docket No. Fincen-2014-0001]

RIN 1506-AB25

Customer Due Diligence Requirements for Financial Institutions; Correction

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Correcting amendments.

SUMMARY: FinCEN is making technical corrections to a final rule published in the **Federal Register** on Wednesday, May 11, 2016. The final rule relates to certain customer due diligence standards applicable to covered financial institutions, defined as banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. As published, the final rule contains technical errors that could cause confusion if not corrected.

DATES: *Effective date:* These corrections are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Applicability date: Covered financial institutions must comply with these rules and the rules published in the Federal Register on May 11, 2016 (81 FR 29398) by May 11, 2018.

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1-800-767-2825. E-mail inquiries can be sent to frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 11, 2016, FinCEN published a final rule (81 FR 29398) entitled “Customer Due Diligence Requirements for Financial Institutions.” The final rule amends the Bank Secrecy Act regulations to include a new requirement for covered financial institutions to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exclusions and exemptions. The final rule also amends the anti-money laundering (AML) program requirements for all covered institutions. This document makes technical corrections to the Certification Form located in appendix A to 31 CFR 1010.230 and adds a paragraph to 31 CFR 1024.210(b) that was inadvertently omitted in the final rule published in the Federal Register with an effective date of July 11, 2016, and an applicability date of May 11, 2018.

II. Description of the Technical Corrections

A. Correction to Appendix A to §1010.230

This document makes technical corrections to Appendix A (Certification Form) to 31 CFR 1010.230. Appendix A inadvertently omitted the words “, Type,” after “Name” in the heading of Section II.b.¹ Appendix A also included the term “foreign persons” in lieu of the term “non-U.S. persons” in several places and omitted the term “Social Security number” as described below. Because appendix A was originally printed in the Federal Register from camera-ready copy rather than from typed text, the entire Appendix A, with the corrections, must be reprinted in the Federal Register from new camera-ready copy. As revised, appendix A (Certification Form) is identical to the original version

¹ See 81 FR 29398, 29455.

except for the following: in the first sentence in Part I under the heading “What information do I have to provide?”, the term “foreign persons” is changed to “non-U.S. persons”; and in Part II: the heading of Section II b. is changed to “b. Name, Type, and Address of Legal Entity for Which the Account is Being Opened.”; and in the headings of the last column in the Tables in Section II c and Section II d, the term “Foreign Persons” is changed to “Non-U.S. Persons” and the term “Social Security Number” is added after the term “persons”; and in footnote 1, the term “Foreign Persons” is changed to “Non-U.S. Persons” and “a Social Security Number,” is inserted after the word “provide”.

B. Correction to §1024.210

This document also makes a technical correction in 31 CFR 1024.210 by reinserting the training element of the AML program requirements for mutual funds, which was inadvertently omitted from the final rule. Consistent with 31 U.S.C. 5318(h)(1)(C) and the AML program requirements for mutual funds adopted in 2002,² the training element appeared in the proposal amending the AML program requirements for mutual funds to add a new requirement relating to customer due diligence.³ In the final rule, however, the training element was inadvertently omitted from 31 CFR 1024.210(b). The training element is being reinserted by this correction document.

III. Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public comment procedure thereon

² 67 FR 21117, 21121 (April 29, 2002).

³ See 31 CFR 1024.210(b)(4) and (5) in the proposed rule published August 4, 2014 (79 FR 45151, 45173).

are impracticable, unnecessary, or contrary to the public interest. This correcting document reinserts language inadvertently omitted from the “Customer Due Diligence Requirements for Financial Institutions” final rule, specifically the training element in the AML program rule for mutual funds, and deletes a term and adds language that was inadvertently omitted from the Certification Form which accompanied the final rule. The agency has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment is unnecessary.

Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. FinCEN finds that there is good cause for shortened notice since the revisions made by this final rule are minor, non-substantive, and technical. This final rule takes effect [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] with an applicability date of May 11, 2018.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁴ As noted previously, FinCEN has determined that it is unnecessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Executive Order 13563 and 12866 FinCEN has determined that Executive Orders 13563 and 12866 do not apply in this final rulemaking.

⁴ See 5 U.S.C. 603 and 604.

VI. Paperwork Reduction Act Notices

There are no collection of information requirements in this final rule.

VII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency must prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that no portion of this final rule will result in expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, this final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 31 CFR Parts 1010 and 1024

Administrative practice and procedure, Banks, Banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirement, Securities, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010—GENERAL PROVISIONS

1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314 Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

2. In § 1010.230, revise appendix A to read as follows:

§ 1010.230 Beneficial ownership requirements for legal entity customers.

APPENDIX A to § 1010.230-- CERTIFICATION REGARDING BENEFICIAL OWNERS OF LEGAL ENTITY CUSTOMERS

I. GENERAL INSTRUCTIONS

What is this form?

To help the government fight financial crime, Federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

Who has to complete this form?

This form must be completed by the person opening a new account on behalf of a legal entity with any of the following U.S. financial institutions: (i) a bank or credit union; (ii) a broker or dealer in securities; (iii) a mutual fund; (iv) a futures commission merchant; or (v) an introducing broker in commodities.

For the purposes of this form, a **legal entity** includes a corporation, limited liability company, or other entity that is created by a filing of a public document with a Secretary of State or similar office, a general partnership, and any similar business entity formed in the United States or a foreign country. **Legal entity** does not include sole proprietorships, unincorporated associations, or natural persons opening accounts on their own behalf.

What information do I have to provide?

This form requires you to provide the name, address, date of birth and Social Security number (or passport number or other similar information, in the case of Non-U.S. Persons) for the following individuals (i.e., the **beneficial owners**):

- (i) Each individual, if any, who owns, directly or indirectly, 25 percent or more of the equity interests of the legal entity customer (*e.g.*, each natural person that owns 25 percent or more of the shares of a corporation); **and**
- (ii) An individual with significant responsibility for managing the legal entity customer (*e.g.*, a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer).

The number of individuals that satisfy this definition of “beneficial owner” may vary. Under section (i), depending on the factual circumstances, up to four individuals (but as few as zero) may need to be identified. Regardless of the number of individuals identified under section (i), you must provide the identifying information of one individual under section (ii). It is possible that in some circumstances the same individual might be identified under both sections (*e.g.*, the President of Acme, Inc. who also holds a 30% equity interest). Thus, a completed form will contain the identifying information of at least one individual (under section (ii)), and up to five individuals (*i.e.*, one individual under section (ii) and four 25 percent equity holders under section (i)).

The financial institution may also ask to see a copy of a driver’s license or other identifying document for each beneficial owner listed on this form.

II. CERTIFICATION OF BENEFICIAL OWNER(S)

Persons opening an account on behalf of a legal entity must provide the following information:

a. Name and Title of Natural Person Opening Account:

b. Name, Type, and Address of Legal Entity for Which the Account is Being Opened:

c. *The following information for each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above:*

Name	Date of Birth	Address (Residential or Business Street Address)	<i>For U.S. Persons:</i> Social Security Number	<i>For Non-U.S. Persons:</i> Social Security Number, Passport Number and Country of Issuance, or other similar identification number ¹

(If no individual meets this definition, please write “Not Applicable.”)

d. *The following information for one individual with significant responsibility for managing the legal entity listed above, such as:*

- An executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or*
- Any other individual who regularly performs similar functions.*

(If appropriate, an individual listed under section (c) above may also be listed in this section (d)).

¹ In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Name/Title	Date of Birth	Address (Residential or Business Street Address)	<i>For U.S. Persons:</i> Social Security Number	<i>For Non-U.S. Persons:</i> Social Security Number, Passport Number and Country of Issuance, or other similar identification number ¹

I, _____ (*name of natural person opening account*), hereby certify, to the best of my knowledge, that the information provided above is complete and correct.

Signature: _____ Date: _____

Legal Entity Identifier _____ (Optional)

PART 1024-RULES FOR MUTUAL FUNDS

3. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314 Pub. L. 107-56, 115 Stat. 307; sec. 701, Pub. L. 114-74, 129 Stat. 599.

4. In § 1024.210:

a. Redesignate paragraph (b)(4) as paragraph (b)(5);

b. In newly redesignated paragraph (b)(5)(ii), remove the words “paragraph (b)(4)(ii)” and add in their place the words “paragraph (b)(5)(ii)”; and

c. Add a new paragraph (b)(4).

The addition reads as follows:

§ 1024.210 Anti-money laundering program requirements for mutual funds.

(b) ***

(4) Provide ongoing training for appropriate persons; and

Dated: September 14, 2017

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