



Identity Management: Do You Know Who You Are Doing Business With?

John Robinson



Customer Due Diligence (CDD)

Final Rule

- FinCEN / Department of Treasury Rule
- Applies to Covered Financial Institutions
 - Banks or credit unions
 - Brokers or dealers in securities
 - Mutual funds
 - Futures commission merchants
 - Introductory brokers in commodities
- 3 Core Requirements
 - Collect and verify the personal information of beneficial owners when a company opens an account
 - Understand the nature and purpose of customer relationships / Develop risk profiles
 - Conduct ongoing monitoring to identify and report suspicious transactions
- Must Comply by May 11, 2018

Proposed Federal Legislation

Companion Bills HR4450 & S2489

- **Corporations and LLCs - Duty to Provide**
 - Must provide state with list of beneficial owners during formation process
- **Corporations and LLCs - Duty to Update**
 - Must provide the state with beneficial owner information no later than 60 days after a change
 - List of beneficial owners must be included in annual filings with the state
- **States' Retention of Information**
 - Required to retain beneficial ownership information for five (5) years following the date of entity termination

Proposed Federal Legislation

Companion Bills HR4450 & S2489

- **Licensed Formation Agents**

- In lieu of filing beneficial ownership information, companies may provide information to a licensed formation agent if the state has a system in place to license those agents
- Licensed formation agent must consent to collect and maintain beneficial ownership information
- Corporation or LLC must provide the state with certification from the licensed formation agent that they have agreed to maintain the information

- **Exempt Entities**

- Banks and public corporations do not have to file beneficial ownership information
- BUT must provide officer/director or member/manager information

Proposed Federal Legislation

Companion Bills HR4450 & S2489

- **Foreign Beneficial Owners**

- If there are foreign beneficial owners, companies must have a formation agent file certification with the state that the formation agent:
 - Obtained for each person a current street address and a copy of current passport
 - Verified the name, address, and identity of each person
 - Will provide the information on each person upon request
 - Will retain the information and proof of verification for five (5) years after the entity terminates

- **Formation Agents**

- Adds formation agents to the definition of financial institution under the Bank Secrecy Act
- Would require formation agents to establish anti-money laundering (AML) programs

Proposed Federal Legislation

Companion Bills HR4450 & S2489

- **Opposed by**
 - National Association of Secretaries of State (NASS)
 - National Conference of State Legislatures (NCSL)
 - American Bar Association (ABA)
 - U.S. Chamber of Commerce

Proposed (not yet filed) Federal Legislation

Amending Bank Secrecy Act

- Proposed by White House and Department of Treasury
- Gives Secretary of Treasury the power to require US entities to maintain and file reports on the beneficial owners of legal entities
- Proposes penalties for failure to comply

Capitol Services, Inc.

OFAC Compliance Policy Summary

- **Daily- New Accounts & New Contacts**
 - Potential customer (person/entity), including the point of contact, is searched and vetted against the current SDN list via a subscription service to a global compliance application
 - Any new contact added to an existing account is searched and vetted against the current SDN list as well
 - Procedure is performed daily to ensure that potential customers and contacts are not prohibited persons or entities

Capitol Services, Inc.

OFAC Compliance Policy Summary

- Quarterly- Existing Customer and Contact Base
 - All existing customers and contacts are searched against the current SDN list via a subscription service to a global compliance application
 - Procedure is performed quarterly to ensure that existing customers and contacts are not prohibited persons or entities

Capitol Services, Inc.

OFAC Compliance Policy Summary

- **Potential Match**
 - When a potential name match between customer and SDN list is detected, we take OFAC's due diligence steps to determine whether the match is valid
- **Quarterly- Existing Customer and Contact Base**
 - If an exact match or a match with a number of similarities is found after taking OFAC's due diligence steps, we notify OFAC via their hotline



Questions?