



Anti-Money Laundering / Countering the Financing of Terrorism (AML/CFT) Program Rule

Notice of Proposed Rulemaking (NPRM)
September 2024

These slides are explanatory only and do not supplement or modify any obligations imposed by statute or regulation.



Main Topics

- Current Program Rule Obligations
- AML Act and AML/CFT Program NPRM Overview
- Overview of Changes Proposed in the NPRM
- Tribal Considerations
- Resources



Current AML/CFT Program Obligations

- Financial institutions have long maintained AML/CFT programs under existing regulations.
- The Bank Secrecy Act (BSA) requires certain financial institutions to establish AML/CFT programs that must include, at minimum, the following components (the “five pillars”):
 - (1) the development of internal policies, procedures, and controls;
 - (2) the designation of a compliance officer;
 - (3) an ongoing employee training program;
 - (4) an independent audit function to test programs; and ***in some cases***
 - (5) Customer Identification Program and/or Customer Due Diligence obligations.
- Financial institutions with obligations under the “program rules” include:
 - banks; casinos and card clubs; money services businesses; broker-dealers; mutual funds; insurance companies; futures commission merchants and introducing brokers in commodities; dealers in precious metals, precious stones, or jewels; operators of credit card systems; loan or finance companies; housing government sponsored enterprises; and investment advisers (effective Jan. 2026).



AML Act and Program Rule NPRM Overview

- Relevant Purposes of the Anti-Money Laundering Act of 2020 (AML Act)
 - Modernize AML/CFT laws “to adapt the government and private sector response to new and emerging threats”;
 - Encourage technological innovation to more effectively counter money laundering and the financing of terrorism; and
 - Reinforce that AML/CFT policies, procedures, and controls of financial institutions must be risk-based.
- FinCEN’s AML/CFT Program NPRM
 - FinCEN published the NPRM in the Federal Register on July 3, 2024.
 - The comment period for Federal Register comments closed on September 3, 2024.
 - The federal banking agencies have proposed parallel and separate revisions to their program rules based on their independent authorities.
- NPRM Proposes to Implement Obligations under the AML Act
 - Proposes to require financial institutions to consider National AML/CFT Priorities (Priorities) as part of their AML/CFT programs.
 - Proposes minimum standards for risk-based, effective, and reasonably designed AML/CFT programs.
 - Reflects certain factors (e.g., the impact on de-risking and financial inclusion, risk-based allocation of resources) the AML Act requires FinCEN to consider when proposing program rule requirements.
 - Proposes to incorporate other technical changes required by the AML Act.



Overview of Changes Proposed in the NPRM

- Notable Proposed Changes
 - Requirement to incorporate Priorities into risk-based programs.
 - Harmonizes program rule text across types of financial institutions subject to BSA
 - Emphasizes through a new purpose statement that AML/CFT programs must be “effective, risk-based, and reasonably designed.”
 - Requirement to incorporate Risk Assessment Process (RAP) as new program rule component.
 - Revises four of the five pillars (internal controls, AML/CFT officer, training, and testing).
 - Requires that persons located in the United States be responsible for administration of AML/CFT program.
 - Requires that Board or an equivalent governing body approve AML/CFT program.
 - “CFT” added to AML in describing programs (now “AML/CFT” programs).
- Risk assessment process would serve as the basis of a risk-based program under the NPRM.
 - AML/CFT programs would be required to identify, evaluate, and document money laundering and terrorist financing risks, including through consideration of:
 - Priorities;
 - Products, services, distribution channels, customers, and geographic locations; and
 - Reports filed pursuant to the BSA.
 - Periodic updates, including, at a minimum, when there are material changes to ML/TF risks.



Tribal Considerations

- Proposed Changes Specific to Casinos
 - Remove the requirement in the existing rule that each casino program provide for “the use of automated programs to aid in assuring compliance” if the casino has “automated data processing systems.”
 - This proposed change is not meant to eliminate any applicable, substantive requirements for casinos but to reflect the risk-based approach taken across the various other program rules.
- Comments from Treasury’s Tribal consultation are due by October 18, 2024: tribal.consult@treasury.gov.



Resources

- Press release announcing issuance of NPRM
 - <https://fincen.gov/news/news-releases/fincen-issues-proposed-rule-strengthen-and-modernize-financial-institutions>
- Fact Sheet on NPRM
 - <https://www.fincen.gov/sites/default/files/shared/Program-NPRM-FactSheet-508.pdf>
- Press release on Interagency Statement with federal banking agencies
 - <https://www.fincen.gov/news/news-releases/interagency-statement-issuance-amlcft-program-notices-proposed-rulemaking>