

# FinCEN Issues FAQs Regarding Customer Due Diligence Requirements

On Monday, the Financial Crimes Enforcement Network (FinCEN) issued responses to [Frequently Asked Questions \(FAQs\)](#) regarding customer due diligence (CDD) requirements for financial institutions. While the CDD requirements currently apply only to financial institutions, there is an effort underway to shift some of these reporting obligations to small businesses. The House of Representatives passed such a provision as a rider to the National Defense Authorization Act (NDAA) as a result of advocacy by the banks. FinCEN's publication of the FAQs will hopefully alleviate the pressure on Congress to shift this reporting burden from banks to small businesses.

Under a rule that took effect in May 2018, financial institutions are required to collect information about the owners of corporate banking accounts and report that information to FinCEN. The intent of this requirement is to combat money laundering by identifying anonymous shell companies or limited liability companies with no significant assets or operations. Banks have objected to this reporting requirement and are asking Congress to require small businesses to validate their own identities with FinCEN.

Under the provision passed by the House, millions of small businesses in the United States would be required to register with FinCEN and file updated reports within a year of any corporate information changes. Willful failure to provide complete and updated reports to FinCEN would result in civil penalties of \$500 per day up to \$10,000 and criminal penalties of up to two years in prison, or both. The House provision also significantly reduces the due process rights of small business owners by lowering the legal standards for whom, for what, and for how information could be accessed.

FinCEN's FAQs are the third set of responses issued to help banks comply with the CDD reporting requirements. The information clarifies how banks are to fulfill requirements related to determining, categorizing, and monitoring the risk profile of a customer.

MHI engaged its members in a grassroots campaign and worked with a coalition of small business groups to oppose Senate passage of the House provision. The effort was successful and the Senate bill does not include the shift in reporting responsibility. As the House and Senate now move to a conference committee to reconcile their NDAA bills, MHI will continue to advocate against the House language being included in the final package that is sent to the President for signature. The imposition of this additional reporting requirement would hurt small business owners at a time when they are doing all they can to support the survival of their companies during the pandemic.

If you have any questions, please contact MHI's Advocacy and Communications Department at [MHIgov@mfghome.org](mailto:MHIgov@mfghome.org) or 703-558-0675.

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