

## FinReg Round-Up

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A very Happy New Year from the FinReg Roundup! For this first issue of 2021, we highlight upcoming changes to anti-money laundering (AML) laws that will require certain companies to report beneficial ownership information directly to the Department of the Treasury, report on the relaunch of the Paycheck Protection Program (PPP) and the opportunity for borrowers to receive additional loans, and predict some of the trends we think will be at the FinReg forefront in 2021.



# Anti-Money Laundering Act Mandates Holding Company Disclosures, Creates Database

The Anti-Money Laundering Act of 2020 (AML Act) took effect on Jan. 1, 2021, enacting significant reforms to the Bank Secrecy Act that update AML rules. Included in the National Defense Authorization Act for Fiscal Year 2021 (NDAA), the AML Act drew solid bipartisan support from the House and Senate, which voted to override former President Trump's veto of the NDAA.

One of the most notable sections in the AML Act is the Corporate Transparency Act (CTA), which requires certain companies to report beneficial ownership information directly to the U.S. Financial Crimes Enforcement Network (FinCEN), the division of the Department of the Treasury in charge of implementing and enforcing AML laws. The CTA is aimed at collecting identifying information from business entities that act as holding companies, also known as shell companies, which can be used to help obscure the origins of money obtained illegally.

FinCEN already requires financial institutions to collect beneficial ownership information on certain categories of customers, but the AML Act will require certain companies to report beneficial ownership information directly to FinCEN and to update their reports with any changes in beneficial ownership. Numerous exceptions apply to the reporting requirement, including entities already subject to other disclosure requirements such as companies registered with the Securities and Exchange Commission (SEC) and public companies. Also exempt are entities that employ more than 20 employees on a full-time basis in the United States, have an operating presence at a physical location in the United States, and have filed income tax returns in the United States demonstrating more than \$5 million in gross receipts or sales.

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Reported information will be stored in a database maintained by FinCEN. The database will not be available to the public, but financial institutions will be able to access it with the consent of the reporting company.

Although the CTA has generated a great deal of concern regarding the burden it might impose on legitimate companies, the reporting requirements are not effective until FinCEN issues final regulations. Once the regulations

are final, entities that existed before the effective date of the regulations will have two years to begin reporting beneficial ownership information. FinCEN has not yet indicated when it plans to issue proposed regulations for public comment; but if we had to guess, we would expect proposed regulations to be released sometime in the spring or early summer of 2021.

## Paycheck Protection Program (Round Two) Launches

Round two of the PPP has launched—including some long-awaited changes and enhanced benefits. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), part of the 2021 consolidated appropriations bill, relaunched the program, extended the PPP through March 31, 2021, and enacted a number of significant updates to the program for current and future loans. The Small Business Administration has also released a number of interim final rules in response to the changes and plans to release more guidance and interpretations as the program progresses, in particular with respect to forgiveness.

Some of the key changes include:

- New categories of expenses for which PPP borrowers can spend funds and still obtain loan forgiveness.

- The option to choose either an eight- or 24-week covered spending period for forgiveness.
- The potential for existing PPP borrowers to apply for second PPP loans or to receive additional funds under the first loan if the borrower did not draw funds up to the full amount of the loan.
- A simplified forgiveness process for borrowers with loans up to \$150,000.
- New exemptions for calculating forgiveness reduction percentages, and modification of the deadlines for borrowers to cure employee reductions.
- Greater transparency for loan forgiveness reviews and loan audits.

Read our full alert on the PPP relaunch [here](#).

## FinReg in 2021

2020 was an eventful year in more ways than we all would have liked, and 2021 so far has been quite busy. The new administration will certainly bring changes in financial services regulation. While the chairs of the Federal Deposit Insurance Company (FDIC) and Federal Reserve Board remain the same, we have a new Treasury Secretary, Janet Yellen, and will have new heads of both the Office of the Comptroller of the Currency (OCC) and the Consumer Financial Protection Bureau (CFPB).

Trying to predict the priorities and initiatives of a new administration is a popular pastime in Washington, D.C., and, despite our wish for omniscience, we do not have a better crystal ball than anyone else. But we are keeping a watchful eye on a few trends and developments for 2021:

- Growth of FinTech companies attempting to reach the unbanked and underbanked, and gig economy workers, along with discussions and debates among state and federal regulators on the best ways to supervise and regulate FinTechs.
- Continued fighting between states and the OCC over FinTech charter and true lender issues.
- Reprioritization of enforcement at the CFPB, with a renewed focus on fair lending and equitable access.
- Regulations implementing the AML Act and the CTA, along with continuing discussions on how to improve the utility of data collection, including suspicious activity reporting (SAR) and beneficial ownership information, for detecting and preventing money laundering.

- The continuing transition from the London InterBank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR).
- Regulatory focus on privacy and cybersecurity issues and risks for the financial system.

This is certainly not a comprehensive list of changes and initiatives we expect to see in 2021. We continue to monitor a variety of topics and areas of interest and will keep you updated on new developments.

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## Related Professional

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