



Financial Crimes Enforcement Network
U.S. Department of the Treasury

Washington, D.C. 20220

Dear Tribal Leader,

We are writing regarding the implementation of the recently enacted Anti-Money Laundering Act of 2020 (AML Act) by the Financial Crimes Enforcement Network (FinCEN).¹ As you may know, FinCEN is a bureau of the U.S. Department of the Treasury whose mission is to safeguard the financial system from illicit use, combat money laundering, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.

The AML Act includes significant reforms to the U.S. anti-money laundering regulatory regime, and the Act requires consultation and enhanced partnership between FinCEN and Tribal governmental agencies in implementing several of the Act's reforms.

We are sending this letter to highlight issues that may be relevant to you, to invite you to participate in a meeting focused on some of these changes, and to encourage your participation in FinCEN's rulemaking and other implementation efforts, as described in more detail below.

The following sections of the AML Act call for engagement between FinCEN and Tribal authorities:

1. **Corporate Transparency Act.** Title LXIV (Sections 6401-6403) of the AML Act is known as the Corporate Transparency Act (CTA). The CTA mandates FinCEN's collection of beneficial ownership information from certain legal entities formed or registered to do business in the United States, including those formed or registered by filing the appropriate forms under Tribal law. The CTA also provides for FinCEN's disclosure of beneficial ownership information to authorized users, including Tribal law enforcement, pursuant to security, confidentiality, and use protocols. In promulgating regulations requiring the reporting of beneficial ownership information, the Secretary of the Treasury must, to the greatest extent practicable, establish partnerships with State, local, and Tribal government agencies and work collaboratively with these agencies to update the required reporting information. Relevant Federal, State, and Tribal agencies are required, to the greatest extent practicable and consistent with applicable protections, to cooperate with and provide information to FinCEN for purposes of maintaining an accurate, complete, and highly useful database of beneficial ownership information. The CTA also requires Tribal organizations to provide certain notifications to those who form or register legal entities.
2. **AML Act Section 6102(b).** This provision amends FinCEN's duties and powers under 31 U.S.C. § 310(b)(2) to expand information sharing with Tribal authorities.
3. **AML Act Section 6306.** This provision adds a new safe harbor to protect financial institutions from liability or supervisory action for keeping a customer account open or maintaining a transaction in response to a written request from a law enforcement agency (*i.e.*, a "keep open request"), so long as, in the case of non-Federal law enforcement agencies, including Tribal

¹ The AML Act is Division F of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. No. 116-283).



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law enforcement, FinCEN concurs with the request. After issuing the written request, the law enforcement agency must submit a copy to FinCEN and alert FinCEN as to whether the financial institution has implemented the request. This provision requires the Secretary of the Treasury, in consultation with the Attorney General and Federal, State, Tribal, and local law enforcement agencies, to issue guidance on the required elements of a keep open request.

4. **AML Act Section 6307.** This provision requires all federal examiners reviewing compliance with the Bank Secrecy Act to attend annual training regarding anti-money laundering and countering the financing of terrorism. The Secretary of the Treasury, in consultation with the Financial Institutions Examinations Council, FinCEN, and Federal, State, Tribal, and local law enforcement agencies, must establish appropriate training materials and standards for use in the required training.

We anticipate various opportunities for Tribal organization consultation and engagement regarding FinCEN's efforts to implement these provisions, starting with the following:

1. **Virtual Meeting.** We invite you to participate in a virtual meeting on Wednesday, April 21, 2021 from 2:00 p.m. to 4:00 p.m. EST. We respectfully request that each tribe register one primary leader or designee leader to provide comments. Others are welcome to register as listen-only participants. Please register [here](#).

This meeting will focus on the CTA. The goal of this meeting is to learn more about Tribal-specific processes, issues, and concerns related to the CTA, including business formation, registration, and ongoing compliance; transmission of relevant data to and from FinCEN, including any relevant technological issues that should be considered; and the best methods for future Tribal engagement with FinCEN, including how best to communicate and disseminate information.

2. **Rulemaking.** FinCEN has published an Advance Notice of Proposed Rulemaking ([ANPRM](#)) to solicit public comment on questions relevant to the implementation of the CTA, including the promulgation of regulations. Written comments on the ANPRM should be submitted to [regulations.gov](#) by May 5, 2021. We strongly encourage you to submit written comments in response to the ANPRM and in future stages of the rulemaking processes, so your views can be considered as FinCEN develops its regulations.
3. **Consultation on AML Act Sections 6306 and 6307.** There will be subsequent communications from Treasury regarding consultation on AML Act Sections 6306 and 6307 requirements.
4. **Broader engagement.** We intend to engage in dialogue with Tribal governmental agencies generally on how to strengthen our partnership, including appropriate sharing of financial



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intelligence maintained by FinCEN. We encourage you to reach out to FinCEN directly as we continue thinking through the opportunities to deepen the partnership between FinCEN and Tribal authorities. FinCEN's Strategic Operations Division is coordinating this effort and can be reached at tribal.consultations@fincen.gov.

We hope that you will be able to join us for this important discussion and value your participation. Please feel free to contact FinCEN through the email address provided above with any questions.

Sincerely,

Michael Mosier
Acting Director
Financial Crimes Enforcement Network