

Regulatory Alert

Regulatory Insights for Financial Services



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Banking Services, Customer Due Diligence, and Know-Your-Customer

KPMG Regulatory Insights

- **Phased Buildout:** Directs agencies to address, through advisories, guidance, and rulemaking, potential risks of illicit financial activity related to “non-work authorized” populations and their employers.
- **Due Diligence Requirements:** Emphasizes requirements for risk-based customer due diligence programs, know-your-customer practices and accurate account holder information.
- **Information Requirements:** Priorities include requirements that financial institutions maintain authority to obtain information regarding account holders’ lawful immigration status and work authorization when it is warranted by other risk factors or supervisory concerns, rather than blanket requirements to obtain additional information about account holders.
- **Looking Ahead:** While the Executive Order outlines specific actions to be taken by various regulators, the exact structure of rulemaking provisions remains unknown as well as the potential implementation challenges with other regulatory priorities.

The Administration has [issued](#) an Executive Order 14406 entitled “Restoring Integrity to America’s Financial System.” The Executive Order establishes near term priorities for interagency cooperation and objectives to safeguard the financial system from illicit use and to promote safe and sound lending and other practices, including potential credit risks, associated with extending financial services to “non-work authorized” populations and their employers.

Identified financial services risk areas include:

- Customer identification programs and enhanced due diligence

- Mortgage and consumer credit underwriting
- Schemes, such as those that may obscure income, distort credit, or facilitate “underground economic activity”

The Executive Order outlines specific actions to be taken by the Secretary of the Treasury, the “federal functional financial regulators” (defined to include the Federal Reserve Board (FRB), Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and National Credit Union Administration (NCUA)), and the Consumer Financial Protection Bureau (CFPB) as follows:

Agency/Official	Responsibility	Deadline
Secretary of the Treasury	<p>Issue a formal advisory to financial institutions regarding potential financial crime risks associated with non-work authorized populations and their employers, including red flags and typologies for:</p> <ul style="list-style-type: none"> — Evidentiary patterns of payroll tax evasion by employers or labor brokers, including failure to withhold or remit federal employment taxes. — Use of foreign-identity documents, nominee accounts, shell companies, or funnel structures designed to conceal beneficial ownership or payroll activity. — Use of unregistered money services businesses, third-party payment processors, or peer-to-peer platforms to facilitate off-the-books wage payments. — Repetitive sub-threshold cash activity patterns tied to payroll cycles outside regulated payroll systems (“structure and micro-structuring”). — Financial activity indicative of labor trafficking or forced labor, including commingling with legitimate revenue or transfers abroad. — Use of an individual taxpayer identification number (ITIN) to obtain credit products or open depository accounts without verified lawful immigration status; use of an ITIN in lieu of a Social Security Number or a valid work-authorized visa may be a risk factor requiring enhanced customer due diligence. 	60 days
FRB, OCC, FDIC, NCUA	<p>Individually issue guidance applicable to institutions under each agency’s supervision regarding management of potential credit risks associated with non-work authorized populations.</p>	60 days
CFPB	<p>Consider clarifying that potential deportation of a borrower and loss of wages are factors that could adversely affect a non-work authorized borrower’s ability to repay a mortgage loan under the standards in Regulation Z, which implements the Truth in Lending Act, and that lenders may consider such factors as part of a reasonable and good-faith underwriting determination.</p>	60 Days
Secretary of the Treasury, in consultation with: <ul style="list-style-type: none"> — FRB — OCC — FDIC — NCUA 	<p>Propose changes to applicable Bank Secrecy Act (BSA) – Implementing regulations to strengthen risk-based customer due diligence for covered financial institutions, to ensure that financial institutions:</p> <ul style="list-style-type: none"> — Collect and verify sufficient customer identity information to reasonably identify nominal and beneficial account owners in order to assess risks related to illicit finance, sanctions evasion, fraud, or other unlawful activity. — Maintain authority to obtain additional information, where warranted by other risk indicators or supervisory concerns, to resolve material compliance concerns including whether account holders possess lawful immigration status and employment authorization in the United States when it is relevant to assessing risks associated with fraud, identity misrepresentation, sanctions evasion, or other illicit financial activity. <p>Consider changes to applicable BSA-implementing regulations for covered financial institutions to strengthen risk-based customer identification programs, including risks associated with foreign consular identification cards.</p>	<p>90 days</p> <p>180 days</p>

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