



BENEFICIAL OWNERSHIP EXCEPTIVE RELIEF FACT SHEET | YOUR MAP TO REGULATORY CHANGE

BACKGROUND

FinCEN has granted exceptive relief to covered financial institutions from the Beneficial Ownership Rule and its requirements to identify and verify the identity of beneficial owner(s) when a legal entity customer opens a new account as a result of:

- A rollover of a certificate of deposit (CD).
- A renewal, modification or extension of a loan¹ that does not require underwriting review and approval.
- A renewal, modification or extension of a commercial line of credit or credit card account that does not require underwriting review and approval.
- A renewal of a safe deposit box rental.

The exception only applies to the rollover, renewal, modification or extension of any types of accounts listed, but does **not** apply to the initial opening of such accounts.

The exception affects the accounts described above and defined below in **two** ways:

- By removing the obligation to collect beneficial ownership information when an account **opened before May 11, 2018 rolls over or renews after May 11, 2018**, as if it were a new account AND
- By removing that same obligation for rollovers, modifications, extensions and renewals of such accounts **opened after May 11, 2018**.

While this exception relieves you from treating rollovers, loan or safe deposit box rental renewals, modifications or extensions described in the Rule as new accounts for beneficial ownership purposes, it does not relieve you from your obligation to collect sufficient information

IMPLEMENTATION CONSIDERATIONS

Many of you may be thinking, “But we already took action to gather beneficial ownership information for our CDs, commercial lines of credit and safe deposit boxes,” while others are shouting with glee. Regardless of which group you fall into, the endgame is the same. Yes, some of you might have taken on additional work and action steps to ensure you had processes in place to gather beneficial ownership information prior to or upon rollover, renewal, etc. That’s ok. You have it on file. If you waited to find out how FinCEN would land on this issue, you are on good footing as well.

Here’s the thing, though: Either way, you’ll need to update your policies and procedures to reflect this exceptive relief. And, if you’ve implemented procedures, and taken action, to gather the information already, you should ensure that your policies – and the minutes of your Compliance Council meeting – should indicate that you are taking advantage of the permanent exceptive relief. That documentation will demonstrate the change over in your processes over the last 4+ months, depending on when you took action to address auto-renewing products in planning for the May 11, 2018 implementation deadline of the Beneficial Ownership Rule.

You’ll also want to communicate to your staff this change in the Rule to ensure they understand when, and to what, it applies.

¹ e.g. setting a later payoff date

to understand the nature and purpose of customer relationships in order to develop a customer risk profile, as needed as part of the AML program requirement. In other words, CDD still applies. And, regardless of when an account was established, you must still conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, maintain and update customer information.

CRITICAL DEFINITIONS

Certificates of Deposit

For purposes of this Rule, a CD is a deposit account that has a specified maturity date but cannot be withdrawn before that date without incurring a penalty. During the term of the CD, a customer cannot add additional funds to the CD. The term of the CD may vary from a week to several years. At the end of the term, when the CD matures, the customer is entitled to the amount deposited and any interest that has accrued; the customer may also have the ability to elect to renew or close the account. Typically, the account will automatically renew absent affirmative action by the customer to close the account.

Loan Renewals, Modifications and Extensions

Generally, a loan account is an account created to track transactions related to a loan that has terms and conditions tailored to the needs and circumstances of the customer, such that the issuance of a new loan would result in a new account relationship. However, once a loan application process is finalized and a loan approved, a financial institution may renew, extend or otherwise modify the loan without substantively changing the terms or requiring additional underwriting. Industry has also represented that, as with CDs, some loans are subject to automatic renewal, modification or extension within a specific time and require no action from the customer for that renewal, modification or extension to take effect.

Commercial Lines of Credit and Credit Cards

A commercial line of credit account is a type of revolving loan account that allows a commercial enterprise to draw upon a predetermined amount of funds and generally use those funds only for specified business purposes. Small businesses rely on those modes of financing to cover short-term needs such as paying suppliers and addressing payroll needs. A business customer can repay the line at any time by making payment to the financial institution through the account, at which point those funds become available for borrowing again. Credit card accounts are revolving accounts, similar to commercial line of credit accounts, that grant the customer a maximum credit limit, which can generally be used to repeatedly so long as the limit is not exceeded. The financial institution may change certain terms of a commercial line of credit or a credit card, such as the credit limit, without requiring the affirmative assent of the customer.

Safe Deposit Boxes

Financial institutions maintain safe deposit boxes within their institutions that they rent to individuals and legal entities to store valuables such as collectibles, documents and jewelry. While financial institutions do not have access to the contents of a safe deposit box rented to a customer, under the terms of the rental agreement, customers are not permitted to store money or dangerous substances in them. In exchange for the use of the safe deposit box, the customer generally pays a rental fee that is electronically deducted from an account provided to the financial institution. During the rental period, the financial institution has minimal or no communication with the customer, so long as the rental payment is made.