
DIVISION OF BANKING

1714 Lincoln Ave, Suite 2, Pierre, SD 57501
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MEMORANDUM

NUMBER: 11-004

DATE: JANUARY 12, 2024

TO: SOUTH DAKOTA LICENSED MONEY LENDERS AND SOUTH DAKOTA LICENSED NON-RESIDENTIAL MORTGAGE LENDERS

FROM: BRET AFDAHL, Director

RE: FINANCIAL CRIMES ENFORCEMENT NETWORK FINAL RULE DATED SEPTEMBER 15, 2020

This Memorandum is being sent to notify all South Dakota licensed money lenders and non-residential mortgage lenders of the publication of the Financial Crimes Enforcement Network's (FinCEN's) Final Rule dated September 15, 2020 (Final Rule), to require Customer Identification Programs (CIP), Anti-Money Laundering (AML) Programs, and beneficial ownership reviews for non-depository financial institutions under the supervision of the state banking authorities. The Final Rule was effective November 16, 2020, and the South Dakota Division of Banking (Division) determined that all South Dakota licensed money lenders and non-residential mortgage lenders must comply by March 31, 2024.

The Final Rule removed all AML Program exceptions for non-depository financial institutions subject to supervision of state banking authorities by amending the 31 CFR 1010.205. Accordingly, effective March 15, 2021, all South Dakota money lenders and non-residential mortgage lenders were legally required to implement an AML Program under 31 USC 5318 (h)(1). Beginning in Q3 2024, the Division will include AML compliance as part of the scope of examinations for South Dakota money lenders and non-residential mortgage lenders.

Among other things, compliant AML Programs will include the following:

- AML Risk Assessment;
- Development of policies, procedures, and internal controls;
- The designation of a compliance officer;
- Ongoing employee training program;
- Know your customer program to include CIP and Customer Due Diligence (CDD) for purpose of developing customer risk profiles;
- Ongoing Monitoring;
 - Transaction Monitoring;
 - Registration with FinCEN to E-File;
 - Reporting Suspicious Activity (SARs);

- Reporting CTRs, FBARs; and
- Independent testing.

The following resources are available to assist in the implementation of a compliant and effective AML Program:

- FinCEN's Final Rule dated September 15, 2020;
- Link to the Federal Financial Institutions Examination Council's (FFIEC) BSA/AML Examination Manual: <https://bsaaml.ffiec.gov/manual>;
- FinCEN's Website: <https://www.fincen.gov/>.

If you would like additional information or have any questions, please do not hesitate to contact the Division at 605-773-3421.