

AML and CTF Modernization Act of 2017

Section-by-Section

Section 1. Short Title.

This Act may be cited as the “Anti-Money Laundering and Counter Terrorism Financing Modernization Act of 2017” or the “AML and CTF Modernization Act”.

Sec. 2. Modification of Currency Transaction Reporting Threshold.

This section directs the Secretary of the Treasury, within 1 year after the date of enactment and every 5 years thereafter, to adjust the threshold for filing Currency Transaction Reports (CTR) to not less than \$30,000 and not greater than the amount that reflects the change in the Consumer Price Index (CPI) to the nearest multiple of \$1,000 from the date the original threshold was set.

Every 5 years, the Secretary shall adjust for CPI the threshold initially set by this section unless the Secretary, after consultation with law enforcement and the Bank Secrecy Act (BSA) Advisory Group, determines that such an adjustment would significantly frustrate the ability of law enforcement and financial institutions to detect and prevent money laundering and terrorism financing, in which case the Secretary may make such adjustment using a metric other than CPI.

Currently, covered institutions are required to file a CTR for transactions that collectively exceed \$10,000 during the course of a day if the institution has knowledge that they are for or on behalf of the same person. The CTR reporting threshold hasn't changed since 1972.

Sec. 3. Modification of Suspicious Activity Reporting Threshold.

This section adjusts the threshold for filing Suspicious Activity Reports (SAR) to reflect changes in CPI to the nearest multiple of \$1,000 from the date the original threshold was set.

If the Treasury Secretary, after consultation with law enforcement and the BSA Advisory Group, determines that such an adjustment would significantly undermine the ability of law enforcement and financial institutions to detect and prevent money laundering and terrorism financing, the Secretary may make such adjustment using a metric other than CPI.

Currently, covered institutions are required to file a SAR if they suspects that a transactions over \$5,000 may involve money laundering or other illegal activity; is designed to evade the BSA; or has no business or apparent lawful purpose or is not of the type in which the customer would be expected to engage. The SAR thresholds haven't changed since 1996.

Sec. 4. Improved Information Sharing.

This section requires the Secretary to clearly authorize domestic financial institutions to share SARs with their foreign branch or affiliates if such branch or affiliate is located in a country that (1) is a member of the Financial Action Task Force (FATF) or a FATF-Style Regional Body; and (2) has adequate privacy protections and data security measures in effect to prevent the unauthorized disclosure of such reports.

FinCEN regulations explicitly provide that depository institutions are not prohibited from disclosing the underlying facts, transactions, and documents upon which a SAR is based within the bank's corporate organizational structure. However, FinCEN guidance does not permit U.S. depository institutions to share SAR information with foreign branches, and, in light of conflicting and confusing commentary by FinCEN on this topic, the scope of the exception for disclosing underlying information is not entirely clear.

This section also improves information sharing between domestic financial institutions by allowing institutions to share information about unlawful activities beyond money laundering.

Sec. 5. Administrative Rulings.

This section codifies the Financial Crimes Enforcement Network's (FinCEN) administrative rulings process with two modifications. First, this section requires that administrative rulings be made within 120 days after the Secretary receives a proper request. Second, this section ensures that rulings shall have precedential value and may be relied upon by others. Furthermore, this section expressly allows the Secretary to charge a fee for each inquiry made under the administrative rulings process codified under this section.

FinCEN's administrative rulings process is established under the Code of Federal Regulations (31 CFR § 1010.710-717) but it is not codified into law. In its regulations, FinCEN states that it "will make every effort to respond to each requestor within 90 days of receiving a request" and allows rulings to be relied upon by others "only if FinCEN makes it available to the public." Currently, FinCEN does not collect inquiry fees due to its interpretation of Office of Management and Budget Circular No. A-25 Revised.

Sec. 6. Qualitative Feedback Mechanism.

This section requires the Secretary to establish a mechanism to communicate anti-money laundering (AML) and countering terrorism financing (CTF) priorities to financial institutions and Federal financial regulators, and provide qualitative feedback on information shared by financial institutions with the Department of Treasury, including CTRs and SARs.

Sec. 7. Report.

This section requires the Secretary to report to Congress on (1) the potential for technologies to help detect and prevent money laundering and terrorist financing; (2) the costs and benefits of establishing a centralized database to help financial institutions prevent money laundering and terrorist financing; (3) actions that can be taken to streamline and improving reporting requirements under the AML regime; (4) how to further include law enforcement within the AML regime; (5) the utility of a single filing threshold for SARs as an alternative to varying thresholds, as currently in effect; and (6) the qualitative feedback mechanism established in Section 6.

Sec. 8. Definitions.

This section defines the terms: (1) currency transaction report; (2) financial institution; and (3) suspicious activity report.