LUSE GORMAN
attorneys

July 1, 2025

LEGAL UPDATES AND NEWS

FDIC, OCC and NCUA Issue Order Exempting Institutions from Customer Identification Program Rule Requirements

On June 27, 2025, the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of Currency ("OCC") and the National Credit Union Administration ("NCUA," and collectively with the FDIC and OCC, the "Agencies") issued an order (the "Order") exempting their supervised institutions from the Customer Identification Program ("CIP") Rule's requirement to obtain taxpayer identification numbers (a "TIN") directly from customers at account opening. The Financial Crimes Enforcement Network ("FinCEN") concurred with the issuance of the Order, which is a significant step forward in modernizing the Bank Secrecy Act and FinCEN's anti-money laundering regulations.

Specifically, the Order permits financial institutions subject to the jurisdiction of the Agencies ("covered institutions") to obtain a TIN from a third-party source rather than directly from the customer prior to opening any type of account. As a practical matter, the Order permits covered institutions to obtain customer social security numbers—the most common TIN for U.S. persons—from a business partner, a vendor, or another source, without asking the customer to provide the data point during the account opening process, whether that is in person at a branch or online. The exemption for all accounts, as defined by FinCEN's regulations, aligns with a longstanding exception built into the CIP Rule that had been previously limited to credit card accounts.

The Order allows covered institutions to obtain a TIN from a third-party source so long as they comply with the CIP Rule, which still requires written procedures that: (i) enable the institution to obtain the TIN prior to opening an account; (ii) are based on the institution's assessment of the relevant risks; and (iii) are risk-based for the purpose of verifying the identity of each customer to the extent reasonable and practicable, enabling the institution to form a reasonable belief it knows the true identity of each customer. The Order makes clear that covered institutions' use of this alternative is optional—covered institutions are still permitted to continue to collect the TIN directly from the customer.

The Order acts on public comments received following a March 2024 interagency request for information regarding the risks and benefits of modifying the CIP Rule's requirements. The Agencies explain that since the original CIP Rule was issued in 2003, there have been significant changes to the ways consumers utilize financial services. All types of accounts, and not just credit card accounts, are now routinely opened via non-face-to-face means, making the requirement to obtain TIN information directly from the customer burdensome, expensive, and oftentimes impractical. The Agencies also highlight the customer privacy and security concerns from provision of the full TIN, stemming from an elevated potential for identity theft and data breaches. Finally, the Order notes that FinCEN has not identified a heightened money laundering, terrorist financing, or illicit finance risk associated with using an alternative method to collect TINs for credit card accounts since the original CIP Rule was issued.

Takeaways

- If covered institutions are going to use an alternative method to collect a TIN from a third-party source, they must modify their existing CIP procedures to outline the new process to be used.

- The exemption should reduce friction at customer onboarding and make it easier to partner with fintechs involved in the opening of various types of bank accounts, as the fintech can utilize their own proprietary methods for obtaining TINs without having the customer provide the number directly.

- Covered institutions' subsidiaries are also covered by the exemption, meaning that those subsidiaries offering various financial services can utilize the exemption in opening accounts as part of their own permissible business activities.

- Covered institutions should be able to remove a competition obstacle vis-à-vis other financial services providers who are not covered by the Bank Secrecy Act, and therefore have no CIP Rule obligations, which allowed these other providers to offer more seamless user experiences.

- The Order was not issued jointly with the Federal Reserve Board, so it is not clear that state member banks can rely on the exemption until that agency issues its own guidance.

* * * * *

Luse Gorman regularly advises financial institutions regarding compliance with the Bank Secrecy Act, USA PATRIOT Act, Anti-Money Laundering Act of 2020, and FinCEN's anti-money laundering regulations. If you have any questions related to this Client Alert, please reach out to Brendan Clegg, Partner, at (202) 274-2034 or by email at bclegg@luselaw.com, or Anahita Mohtasham, Associate, at (202) 274-2030 or by email at amohtasham@luselaw.com. To learn more about our firm and services, please visit our website.