SPOTLIGHT ON THE RIA RULE

Registered Investment Advisers as Financial Institutions under the Bank Secrecy Act

A Spotlight on the Requirements of the Final Rule for Registered Investment Advisers (RIAs) and Exempt Reporting Advisers (ERAs)

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What is an Investment Adviser?

The Investment Advisers Act of 1940 (Advisers Act), as well as its implementing rules and regulations, is the primary federal framework governing investment advisory activity. Under the Advisers Act, an investment adviser (IA) is a person or firm engaged in the business of providing advice to others or issuing reports or analysis regarding securities.

Type	Definition	Other Provisions	SEC Requirements	State Regulator Registration Requirements
Registered Investment Adviser (RIAs)	IAs managing more than $110M Assets Under Management (AUM).	Must still register with the SEC if IA falls below minimum AUM but: • Is required to register with 15 or more States. • Advises a registered investment company. • Is affiliated with an RIA. • Is a pension consultant.	• Must register with the SEC • Submit Form ADV • Update Form ADV at least annually	Not applicable
Exempt Reporting Advisers (ERAs)	IAs qualified to register with the SEC but is statutorily exempt from that requirement.	Statutory exemptions: • Solely advises one or more venture capital funds • Solely advises one or more private funds and has less than $150M in the US	• Must submit Abbreviated Form ADV • Subject to SEC Examination	Not applicable
State-Registered Investment Advisers	IAs managing under $100M AUM.	IAs prohibited from registering with the SEC but must register with and are supervised by State Authority.	Not applicable	• Must register with relevant State authority • Submit Form ADV to relevant State authority
Foreign-Located Investment Advisers	IAs with principal offices and places of business outside the US but provides advise to US persons.	Exemptions include: • Foreign private adviser • Non-US IA registered with the SEC with respect to its non-US clients	• Must register with the SEC. • Must file with the SEC as ERA if they meet requirements.	Not applicable

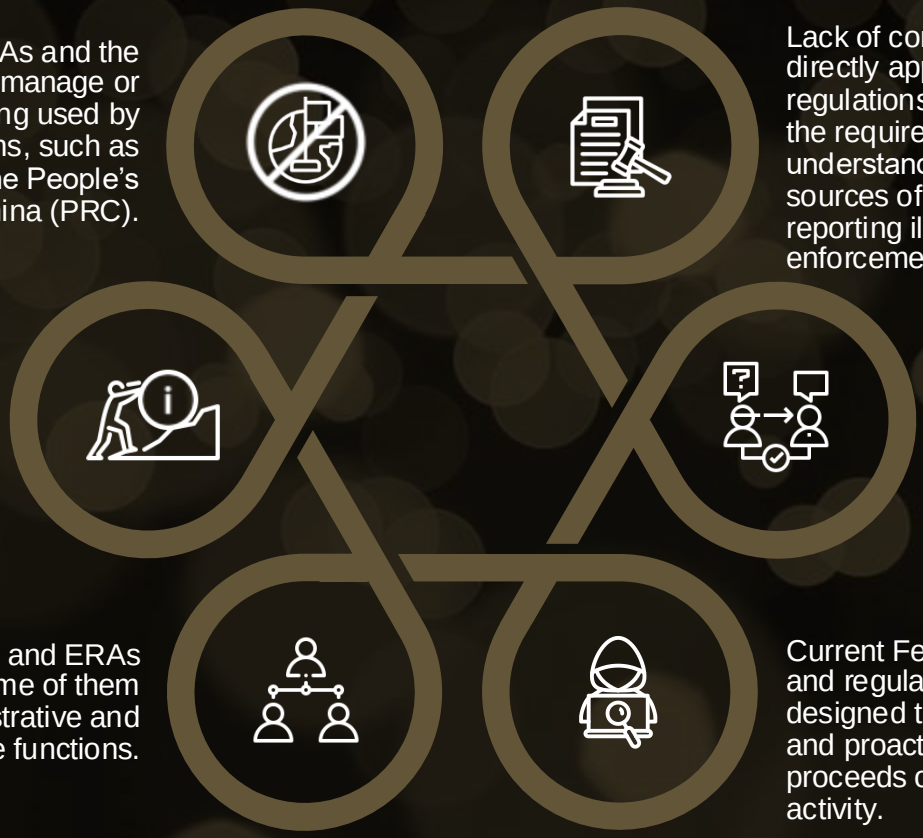
Illicit Finance Risk from the IA Industry

Findings from the 2024 Investment Adviser Risk Assessment published by the Department of the Treasury in February 2024, identified that investment advisers have served as a gateway for illicit funds associated with fraud, foreign corruption, tax evasion as well as sanctioned entities. Based on the analysis, more than 15% of RIAs and ERAs were associated with at least one SAR between 2013 and 2021, where cases identified that the IA industry served as an entry point for illicit funds to enter the US financial system and that certain IAs manage billions of dollars controlled by sanctioned entities. Key findings from the IA Risk Assessment as follows:

Some RIAs and ERAs and the private funds they manage or advise are being used by foreign jurisdictions, such as Russia and the People's Republic of China (PRC).

Lack of comprehensive and directly applicable AML/CFT regulations to IAs and lacking the requirement of understanding customers' sources of wealth and reporting illicit activity to law enforcement.

Existing frameworks make it challenging to collect information relevant to understanding illicit finance risks since investors have the ability to invest through layers of legal entities that may be registered or organized outside the US.



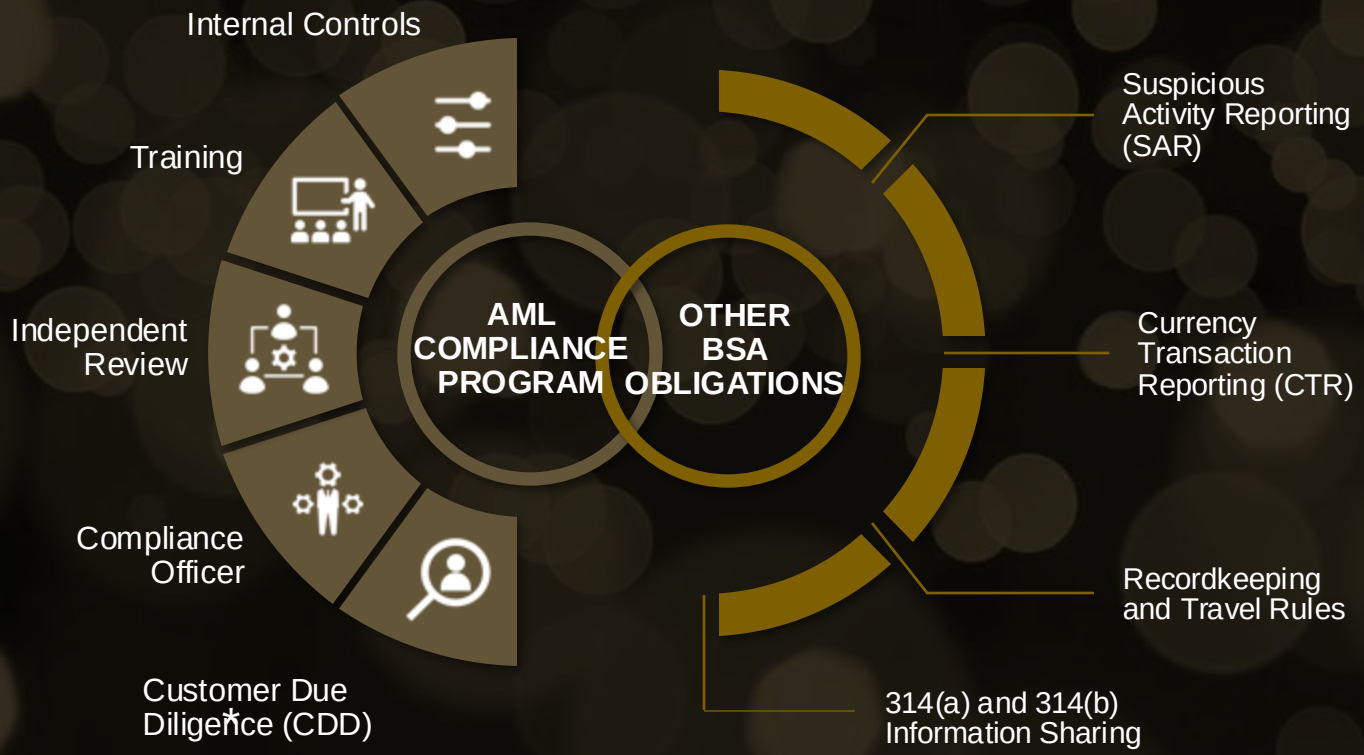
Applicable AML/CFT obligations do not necessitate direct relationship with the customer or the underlying investor in private funds and the inability to collect relevant investor information from RIAs and ERAs.

The reliance of RIAs and ERAs on third parties, some of them abroad, for administrative and compliance functions.

Current Federal securities laws and regulations are not designed to comprehensively and proactively detect illicit proceeds or other illegal activity.

Safeguarding the Investment Adviser Through the RIA Rule

From the findings of the IA Risk Assessment, the Financial Crimes Enforcement Network (FinCEN) issued a Final Rule on August 2024 impacting investment advisers registered with the Securities and Exchange Commission (SEC), also known as Registered Investment Advisers (RIAs), and investment advisers reporting to the SEC as exempt reporting advisers (ERAs), both of which are now included to the definition of a “financial institution” under the Bank Secrecy Act (BSA). Ultimately, the final rule will require RIAs and ERAs to apply Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) requirements by January 2026:



* On May 13, 2024, FinCEN and the SEC issued a Notice of Proposed Rulemaking to incorporate Customer Identification Program requirements for RIAs and ERAs.

EXCLUSIONS FROM THE FINAL RULE

- Mutual funds
- Bank and trust company-sponsored collective investment funds
- Any other investment adviser subject to the rule that is advised by the investment adviser
- RIAs registered with the SEC as:
  (i) mid-sized advisers;
  (ii) multi-state advisers;
  (iii) pension consultants; or
  (iv) RIAs that do not report any assets under management (AUM) on Form ADV
- State-registered IAs, foreign private advisers or family offices

BENEFITS OF THE FINAL RULE

- Help safeguard investments in the US and prevent bad actors from laundering money through the US financial system.
- Improve the transparency and integrity of the US financial system and reduce potential proceeds of crime and other illegal activities.
- Provide vastly useful information to law enforcement authorities and national security agencies.
- Enhance compliance with international AML/CFT standards and address gaps identified by the Financial Action Task Force (“FATF”) in the 2016 US Mutual Evaluation.

Discover what Stratis Advisory can do for you

Operationalized Compliance Program Development

As the final rule now requires, an enterprise BSA compliance program is founded on the five (5) pillars of internal controls, training, a designated compliance officer, independent audit and customer due diligence. Stratis can help you develop, evaluate and implement a scale-appropriate AML and BSA compliance program suitable for your operational needs as an investment adviser, while ensuring that you stay ahead of evolving regulations, guidance, enforcement, and maintaining your bank accounts.

TempCCO® Outsourced Compliance Function

Developing a compliance program is the just the initial step in operating as a regulated financial institution. Operationalizing the compliance program is critical to maintain compliance, bank accounts, and for successful examinations. Depending on the life cycle of your firm, Stratis can provide on-going risk, strategy, and compliance support under our TempCCO® outsourced compliance function to assist you while establishing or maintaining a compliant program. By Stratis providing expertise, you and your team will also be able to obtain sound risk and compliance knowledge during the critical early stages of implementing and maintaining your AML/CFT program.

AML Independent Review

Under the BSA, a financial institution is required to undergo independent testing on an ongoing basis, every 12-18 months at a minimum. Independence can be an internal audit department, outside auditors/consultants, or other qualified parties, but must be conducted by a qualified individual with the requisite BSA-domain knowledge. As Stratis serves a portfolio of global wealth management firms, Stratis can help you with performing your required AML review on a scale and risk-appropriate basis to satisfy your statutory requirement, but also any requirement(s) from your banking partner.

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