**Listening Session Regarding Proposed Rule “Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers”**

This document summarizes a listening session that the U.S. Department of the Treasury (Treasury) and its Financial Crimes Enforcement Network (FinCEN) held with representatives of the investment adviser industry about the notice of proposed rulemaking (NPRM) titled *Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting* issued on February 13, 2024 (Docket Number 2024-02854) (IA NPRM).FinCEN is adding this summary of the listening session to the docket for the NPRM to help ensure that the public is aware of the listening session and understands the information that was provided to Treasury and FinCEN in this session. Treasury and FinCEN did not provide any new substantive information about the NRPM or substantively respond to any comments during the listening session.

DATE: April 11, 2024.

TIME: 3 p.m. – 4 p.m. Eastern Time

LOCATION: Virtual

TREASURY ATTENDEES:

* FinCEN Deputy Director Jimmy Kirby, and staff of FinCEN, Treasury’s Office of Terrorist Financing and Financial Crimes, and Treasury’s Office of General Counsel.

ATTENDEE ORGANIZATIONS:

* Heather Trew - American Bankers Association (ABA)
* Gregg Rozansky - Bank Policy Institute (BPI)
* Robin Traxler - Financial Services Institute (FSI)
* Bernard Canepa, Satish Kini - Securities Industry and Financial Markets Association (SIFMA)
* Staff of the Securities and Exchange Commission

SUMMARY

* Overall comments on the rule: ABA and BPI generally supported the rule but requested some amendments in order to reduce potentially duplicative requirements or onerous examination arrangements.
* SIFMA cautioned against applying requirements to investment advisers that did not appreciate their business activities and role in the financial system in a ‘square peg round hold’ fashion.
* Scope of the Rule: SIMFA supported the exclusion of dual registrants and affiliates from an investment adviser’s AML/CFT program.
* Classification as Financial Institutions: SIFMA was opposed to the classification of investment advisers as Financial Institutions (FIs) on the basis that the investment adviser sector is very diverse, with many performing roles that are not similar to that of a traditional FI such as a bank.
* Delegation of Responsibilities: BPI and SIFMA supported the rule’s proposal to allow investment advisers to delegate contractually the implementation and operation of aspects of its AML/CFT program.
* Information Sharing Provisions: SIFMA recommended that FinCEN clarify how the information sharing provisions of the rule would apply to investment advisers in practice, in particular in relation to USA PATIOT Act Section 314 (a).
* Enforcement: ABA, BPI and SIFMA expressed concerns about the potential for duplicative examination requirements. Each noted that the rule might mean a bank’s investment adviser functions such as a bank-affiliated adviser were in scope of the SEC’s examination. Each requested that the bank’s existing AML/CFT regulators (i.e., the Federal Banking Agencies) were given primacy in the supervision of a bank’s investment adviser functions as already occurs, rather than subjecting a bank’s investment adviser activities to supervision by two different supervisors.