

Financial Crimes Enforcement Network (FinCEN) Beneficial Ownership Survey

The importance of financial institutions obtaining information about owners of accounts has become a topic of increasing significance both domestically and internationally. To better understand when and how financial institutions obtain beneficial ownership information about their customers, we would like feedback from your institution.

Information on persons who exert ultimate control, through ownership of stock or other means, over a customer and over the transactions it conducts (generally known as a “beneficial owner” or “ultimate beneficial owner”) can be essential to let financial institutions identify and mitigate risks of money laundering and terrorist financing. Beneficial ownership information is also important to assist law enforcement investigate financial crimes. Your answers to the following questions will help us better understand the practical realities of developing and implementing procedures to identify beneficial owners of customers.

Survey responses will be analyzed to assess industry practices with respect to collecting and maintaining beneficial ownership information. We hope to gain a better understanding of how institutions are interpreting and implementing regulations in regard to beneficial ownership and to gauge whether or not there is consistency in interpretation across industries. The feedback we receive from this survey will assist FinCEN, in coordination with appropriate Federal regulators, in determining whether guidance may be necessary or if additional outreach initiatives could be undertaken.

The survey should only take approximately 30 minutes to one hour to complete. CFI Group will treat all information you provide as confidential. All information you provide will be combined with others' for research and reporting purposes. CFI Group will not link names, e-mail addresses, organizations or any other information that may be used to identify an individual with his or her answers in the reporting and data it provides to FinCEN. This survey is authorized by the U.S. Office of Management and Budget Control No. 1505-0191.

Demographics

Demo1. Please select the type of financial institution on whose behalf you are responding:

1. Depository Institution
2. Broker Dealer
3. Futures Commission Merchant
4. Insurance Company
5. Mutual Fund
6. Other (please specify)

Demo2. Please select the size of your financial institution by number of accounts:

1. 1 to 999
2. 1,000 to 9,999
3. 10,000 to 100,000
4. More than 100,000
5. Unable to answer

Demo3. Please select the amount of assets in USD equivalents held by your financial institution:

1. Under 1 million
2. 1 million to <50 million
3. 50 million to <100 million
4. 100 million+
5. Unable to answer

Demo4. Does your institution have products that necessitate beneficial ownership determination?

1. Yes (Continue to Q1)
2. No (ASK ONLY Q3, Q6 and Q7)
3. Unable to answer (ASK ONLY Q3, Q6 and Q7)

FinCEN Information

On a scale from “1” to “10,” where “1” is “strongly disagree” and “10” is “strongly agree,” please rate the following statements. If a particular question does not apply, please select “N/A.”

Q1. The current guidance related to customer due diligence, fiduciary responsibilities and OFAC requirements serves an added purpose enabling your institution to assist in the identification of beneficial ownership of accounts, when appropriate, either pursuant to regulation or based upon risk assessment requirements.

Q2a. Your institution finds FinCEN's published guidance on customer due diligence to be very useful in terms of implementing regulations pertaining to beneficial ownership.

Q2b. (ASK ONLY IF Q2a<6)

What would you suggest be done to improve your understanding of supervisory expectations as they relate to the collection and maintenance of beneficial ownership information? (OPEN END)

In 2006, FinCEN issued an advisory on shell companies. (See: http://www.fincen.gov/AdvisoryOnShells_FINAL.pdf)

Q3. Again, on a scale from “1” to “10,” where “1” is “not very useful” and “10” is “very useful,” please rate the usefulness of the above information to your institution in developing your AML policies and procedures. If the question does not apply, please select “N/A.”

FinCEN Staff

On a scale from “1” to “10,” where “1” is “poor” and “10” is “excellent,” please rate FinCEN on your most recent interaction with FinCEN on the subject of beneficial ownership as it relates to the following. If a particular question does not apply, please select “N/A.”

- Q4. The ease of contacting FinCEN to obtain answers to regulatory inquiries.
- Q5. The knowledge demonstrated by FinCEN staff.

Again, on a scale from “1” to “10,” where “1” is “poor” and “10” is “excellent,” please rate FinCEN on your most recent interaction with FinCEN on the more general subject of customer due diligence as it relates to the following. If a particular question does not apply, please select “N/A.”

- Q6. The ease of contacting FinCEN to obtain answers to regulatory inquiries.
- Q7. The knowledge demonstrated by FinCEN staff.

ACSI Benchmark Questions

Now we are going to ask you to please consider your experiences with FinCEN's with respect to the following:

Q8. First, please consider all of the information you have received from FinCEN relating to the collection and maintenance of beneficial ownership information Using a 10-point scale on which "1" means "Very dissatisfied" and "10" means "Very satisfied," how satisfied are you with FinCEN as it relates to the information FinCEN provided relating to the collection and maintenance of beneficial ownership?

Q9. Now thinking about the information you received from FinCEN relating to the collection and maintenance of beneficial ownership information, to what extent has FinCEN met your expectations? Please use a 10-point scale on which "1" now means "did not meet your expectations" and "10" means, "Exceeds your expectations."

Q10. Forget for a moment your experience with FinCEN. Now, imagine what an ideal institution providing information on collection and maintenance of beneficial ownership information would be like. How well do you think FinCEN compares with that ideal institution you just imagined? Please use a 10-point scale on which "1" means "not at all close to the ideal" and "10" means very close to the ideal."

Trust

Q11. Now thinking of the future how confident are you that FinCEN will do a good job in the future providing information on collection and maintenance of beneficial ownership information? Please use a 10-point scale on which "1" means "not at all confident" and "10" means "very confident."

Additional Questions

Now we are going to ask you some questions to find out additional information pertaining to Beneficial Ownership Information and your institution.

Q12. Please specify below how your institution defines or views "beneficial ownership" and "control" both in the context of your anti-money laundering program and in the context of protecting against risk of loss or risk to reputation? (OPEN END)

Q13a. What threshold does your institution use, if any, to determine a controlling interest? (Select one)

1. 5%
2. 10%
3. 15%
4. 20%
5. 25%
6. Greater than 25% (please specify percentage)
7. If your institution uses a criterion other than percentage of ownership, please describe.
8. N/A

Q13b. Is the threshold or criterion product-dependent?

1. Yes (ASK Q13c)
2. No (Skip to Q14)
3. Unable to answer (Skip to Q14)

Q13c. Please explain. (OPEN END)

Q14. From what type of customers/products do you require beneficial ownership information? (Select all that apply.)

1. All non-individuals, which may include trust accounts
2. All non-individuals identified as high risk
3. All corporate operating entities (domestic)
4. All corporate non-operating entities (domestic)
5. All corporate operating entities (foreign)
6. All corporate non-operating entities (foreign)
7. All PEPs (politically exposed persons)
8. All private banking customers (domestic)
9. All private banking customers (foreign)
10. Other (please list)

Q15. How often (as an approximate percentage of all customer relationships) does your institution explicitly request and obtain beneficial ownership information from its customers? (Select one.)

1. Up to and including 5% of all customers
2. Up to and including 10% of all customers
3. Up to and including 20% of all customers
4. Over 20% of all customers (please specify the approximate amount)

Q16. What red flags or circumstances (at account opening or thereafter) might trigger a more thorough beneficial ownership inquiry? Please describe. (OPEN END)

Q17. What type of information does your institution gather to determine beneficial ownership? (Select all that apply.)

1. Purpose of the account
2. Source of funds and wealth
3. Occupation or type of business (of customer or other individuals with ownership or control over the account)
4. Financial statements
5. Banking references
6. Domicile (where the business is organized)
7. Official company formation documents
8. Proximity of the customer's residence, place of employment, or place of business to the bank
9. Description of the customer's primary trade area and whether international transactions are expected to be routine
10. Description of the business operations, the anticipated volume of currency and total sales, and a list of major customers and suppliers
11. Explanations for changes in account activity
12. Other (please specify)

Q18a. Does your institution verify the accuracy of the information and/or documentation received through this process?

1. Yes (ASK Q18b)
2. No (Skip to Q19a)

Q18b. Please explain how the information is verified. (OPEN END)

Q19a. Does your institution rely on information collected from affiliates or external sources?

1. Yes (ASK Q19b)

2. No (Skip to Q20a)

Q19b. If yes, please identify the types of sources utilized. (OPEN END)

Q20a. Does your institution use a customer self-certification to identify beneficial ownership?

1. Yes (ASK Q20b)
2. No (Skip to Q21a)

Q20b. Is the self-certification used for all requests to obtain beneficial ownership information?

1. Yes (Skip to Q21)
2. No (ASK Q20c)

Q20c. Please specify under what circumstances it is used. (OPEN END)

Q21. Describe your policies and procedures for either not accepting or terminating a customer relationship if you cannot obtain beneficial ownership information on the customer. (OPEN END)

Q22a. Does your institution have a required or expected timeframe for gathering beneficial ownership information?

1. Yes (ASK Q22b)
2. No (Skip to Q23)

Q22b. What is that required or expected timeframe for gathering beneficial ownership information?

1. Before account opening
2. Within 30 days of account-opening
3. Within 60 days of account-opening
4. Other (please specify)

Q23. Please provide examples where credit risk or business reputation might cause you to conduct due diligence on your customers' customers. (OPEN END)

Q24. What are the methods your institution uses to gather beneficial ownership information? (Select all that apply.)

1. Manual
2. Automated
3. Questionnaire
4. Direct customer contact
5. Other (please list)

Q25a. Does the procedure for gathering beneficial ownership information differ depending on account, transaction type, customer's relationship with the institution, or some other factor?

1. Yes (Ask Q25b)
2. No (Skip to Q26)

Q25b. Please explain. (OPEN END)

Q26. How does your institution ensure that beneficial ownership information is updated?

1. Periodic review of account information
2. Monitor for change in address
3. Monitor for change in account activity
4. Monitor for change in registered agent
5. Other (please specify)

Q27. At what frequency is this information regularly updated?

1. Monthly
2. Quarterly
3. Semi-annually
4. Annually
5. Only when monitoring triggers an update
6. Other (please specify)

Q28. What steps, if any, does your institution take when handling shares held in bearer form?

(Select all that apply)

1. Identification of owners
2. Monitoring
3. Risk mitigation, etc.
4. My institution does not accept accounts with bearer shares
5. Other (please specify)

Location

Q29. For financial institutions that operate in other countries or jurisdictions, are there insights you could share regarding the practical implications for your financial institution of complying with both U.S. law and foreign law regarding obtaining and verifying the beneficial ownership of customers who are legal entities? (OPEN END)

Q30a. Do corporate formation processes in the United States hinder your ability to obtain accurate and complete beneficial ownership information?

1. Yes (Ask Q30b)
2. No (Skip to Q31)

Q30b. Please explain.

Q31. Do corporate formation processes outside the U.S. hinder your ability to obtain accurate and complete beneficial ownership information?

1. Yes (Ask Q31b)
2. No (Go to close)

Q31b. Please explain.

Closing

On behalf of FinCEN, thank you for your time and participation today. Your feedback is greatly appreciated.