



**FIN-2024-R001**

**Issued: March 15, 2024**

**Subject: Request for Administrative Ruling Regarding Customer Identification Program and Customer Due Diligence Requirements for Designated Beneficiaries of Individual Retirement Accounts**

Dear [ ],

This responds to your request for an administrative ruling on behalf of [ ] (the “Foundation”), submitted to the Financial Crimes Enforcement Network (FinCEN) on July 28, 2022 (the “Request”).<sup>1</sup> This letter supersedes FinCEN’s previous response dated April 14, 2023.<sup>2</sup> FinCEN is issuing this revised response to further clarify the obligations for broker-dealers that open new accounts for legal entity customers.

The Request states that the Foundation is the named beneficiary of an individual retirement account (IRA)<sup>3</sup> maintained by [Broker-Dealer 1]. [Individual 1], who is deceased and held the original IRA, designated the Foundation as the beneficiary of the IRA. The Request further states that in order to receive the funds, [Broker-Dealer 1] is requiring the Foundation to open a new IRA and submit information required by the Customer Identification Program (CIP) and Customer Due Diligence (CDD) Rules, including personal information about the Foundation’s members of the Board of Directors or senior management. The Request asks whether a broker-dealer must comply with identity verification requirements in the CIP Rule<sup>4</sup> and CDD Rule<sup>5</sup> when distributing to a beneficiary of an IRA funds inherited as part of a charitable estate.

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<sup>1</sup> The Request included correspondence between the Foundation and [Broker-Dealer 1] dated November 5, 2021, on the matter in question (the “[Broker-Dealer 1] Letter”), as well as email correspondence from June 2019 between FinCEN’s Resource Center and [Individual 2], a volunteer for nonprofits (the “2019 Email”).

<sup>2</sup> 31 CFR § 1010.716(a)(3).

<sup>3</sup> We note that the [Broker-Dealer 1] Letter states that the Foundation was named as the beneficiary on two [Broker-Dealer 1] IRAs, not one.

<sup>4</sup> The CIP Rule requiring broker-dealers to establish customer identification programs was issued jointly by FinCEN and the Securities and Exchange Commission (SEC). See *Joint Final Rule: Customer Identification Programs for Broker-Dealers*, available at [Joint Final Rule: Customer Identification Programs for Broker-Dealers 34-47752 \(sec.gov\)](https://www.fincen.gov/sec.gov). The joint rule is codified in FinCEN’s regulations at 31 CFR § 1023.220. SEC Rule 17a-8 (see 17 CFR § 240.17a-8) requires broker-dealers to comply with all reporting, recordkeeping, and record retention requirements under the BSA.

<sup>5</sup> FinCEN’s CDD Rule is, in part, codified at 31 CFR § 1010.230. This portion of the CDD Rule requires broker-dealers to identify and verify the identity of certain beneficial owners of legal entity customers when opening new accounts. “Legal entity customers” include, among other entities, nonprofit corporations or similar entities that have filed their organizational documents with a state authority as necessary. See 31 CFR § 1010.230(e)(3)(ii). Additionally, broker-dealers must have, as part of their Anti-Money Laundering (AML) programs, appropriate risk-based procedures for conducting ongoing customer due diligence. See 31 CFR § 1023.210(b)(5).

To the extent that [Broker-Dealer 1] requires the opening of an account, FinCEN’s regulations would require [Broker-Dealer 1] to collect information under the CIP and CDD Rules.<sup>6</sup> [Broker-Dealer 1] is a broker-dealer subject to the requirements of the BSA and FinCEN’s implementing regulations.<sup>7</sup> BSA regulations require that broker-dealers implement a written CIP that includes risk-based policies and procedures that enable the broker-dealer to form a reasonable belief that it knows the true identity of each customer.<sup>8</sup> Specifically, for legal entity customers, a broker-dealer must obtain, at a minimum, the name, address, and identification number, specifically an employer identification number, prior to opening an account.<sup>9</sup>

BSA regulations also require that broker-dealers must establish and maintain written CDD procedures to identify and verify the beneficial owners of legal entity customers, including the collection of the above elements for beneficial owners at the time a new account is opened.<sup>10</sup> For nonprofit organizations such as the Foundation, a broker-dealer would be required under the CDD Rule to obtain identifying information, including but not limited to a social security number, for a single individual with significant responsibility to control, manage, or direct the organization.<sup>11</sup> The CDD Rule cites as examples an executive officer, senior manager, or any other individual who regularly performs similar functions.<sup>12</sup>

This administrative ruling is provided in accordance with the procedures set forth at 31 CFR Part 1010 Subpart G. In arriving at the conclusions in this administrative ruling, we have relied upon the accuracy and completeness of the representations you made in your communications with us. Nothing precludes FinCEN from arriving at a different conclusion or from taking other action should circumstances change or should any of the information provided in your letter prove inaccurate or incomplete.

We reserve the right, after redacting your name and address, to publish this letter as guidance to financial institutions in accordance with our regulations.<sup>13</sup> You have 14 days from the date of this letter to identify any other information you and the Foundation believe should be redacted and the legal basis for redaction.

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<sup>6</sup> According to the [Broker-Dealer 1] Letter, requiring the Foundation to open a new IRA “allows [Broker-Dealer 1] to meet [its] regulatory obligations and permits the orderly transfer and liquidation of securities as well as accurate tax reporting.” We express no view on the rationale and note only that the BSA and its implementing regulations do not require institutions to open new accounts, as a risk-based internal control or otherwise.

<sup>7</sup> See 31 CFR § 1010.100(h) and 31 CFR § 1010.100(t)(2), which defines a “broker or dealer in securities” under the BSA’s implementing regulations. Specific rules for a broker or dealer in securities can be found at Part 1023 of 31 CFR Chapter X, including the requirement to comply with rules, regulations, or requirements of its self-regulatory organization (SRO) governing such programs (see 31 CFR § 1023.210(c)).

<sup>8</sup> 31 CFR § 1023.220(a)(2).

<sup>9</sup> 31 CFR § 1023.220(a)(2)(i)(A). FinCEN’s regulations applicable to broker-dealers such as [Broker-Dealer 1] define an account as a “formal relationship with a broker-dealer established to effect transactions in securities, including, but not limited to, the purchase or sale of securities and securities loaned and borrowed activity, and to hold securities or other assets for safekeeping or as collateral.” 31 CFR § 1023.100(a)(1). The definition is subject to certain exceptions that are not relevant to the Request. See 31 CFR § 1023.100(a)(2).

<sup>10</sup> 31 CFR § 1010.230.

<sup>11</sup> 31 CFR § 1010.230(d)(2), (e)(3)(ii).

<sup>12</sup> 31 CFR § 1010.230(d)(2).

<sup>13</sup> 31 CFR § 1010.711-717.

If you have any additional questions, please contact the Office of Regulatory Policy, Regulatory Interpretation Section, by email at [ ].

Sincerely,

//signed//

James Martinelli  
Deputy Associate Director  
Policy Division

cc: [Individual 2]