

UNITED STATES DEPARTMENT OF THE TREASURY



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FinCEN Proposes to Amend Definition of Broker-Dealer in Securities to Include Funding Portals

WASHINGTON—The Financial Crimes Enforcement Network (FinCEN) today proposed to amend the Bank Secrecy Act's (BSA) definition of "Broker or Dealer in Securities" in order to ensure that funding portals implement policies and procedures reasonably designed to achieve compliance with the BSA requirements, including the filing of suspicious activity reports, currently applicable to brokers or dealers in securities. This proposal does not affect other activities, beyond securities, conducted by these businesses.

Currently, the BSA regulatory definitions of broker or dealer in securities do not include funding portals. The current BSA regulations define broker-dealers in securities as being those persons "registered, or required to be registered, as a broker or dealer with the SEC under the 1934 Act." In 2012, Congress passed the Jumpstart Our Business Startups Act (JOBS Act) that created a new exemption for offerings of crowdfunded securities under certain circumstances. The JOBS Act also exempted certain funding portals from the 1934 Act's registration requirements, thus excluding them from the BSA's definition of brokers or dealers in securities. After consulting the SEC, FinCEN is proposing to amend the relevant BSA definitions to include funding portals, and therefore retain access to the important reports and records that these businesses may provide to combat money laundering and terrorist finance.

Comments on this proposed rule will be accepted until June 3, 2016.

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FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.