

Financial Institutions Client Service Group

To: Our Clients and Friends

September 12, 2011

FinCEN Extends Compliance Date for Many Aspects of Prepaid Access Rule

The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) announced last week that it is extending the compliance date for most aspects of its final rule on prepaid access (the Final Rule). The Final Rule, which was published on July 29, 2011, was set to go into effect on September 27.

Compliance Date for Sellers of Prepaid Access Extended Until March 31, 2012

The provisions of the Final Rule applicable to "sellers of prepaid access" (Sellers) will become effective March 31, 2012. FinCEN states it received compelling information from the industry on the compliance challenges faced by Sellers, given that the Final Rule's original effective date coincides with the back-to-school season and the beginning of the holiday shopping season. Many retailers impose a "lockdown" on their IT systems at this time of year, to accommodate peak retail sales and consumer traffic, which prevents any systems changes until the close of the holiday season in late January.

Compliance Date for Providers of Prepaid Access Remains Sept. 27, 2011 In Part; Extended Until March 31, 2012 In Part

Some provisions of the Final Rule applicable to "providers of prepaid access" (Providers) still become effective Sept. 27, 2011; other provisions are extended until March 31, 2012. By Sept. 27, Providers must:

- Develop an anti-money laundering (AML) compliance program that is risk-based and commensurate with the location, size, and types of financial services offered. (As required by 31 CFR 1022.210(a) and (b).)
- Report suspicious transactions. (31 CFR 1022.320.)
- Maintain transactional records related to prepaid access. (31 CFR 1022.420.)

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Compliance with all other aspects of the Final Rule for Providers is extended until March 31, 2012.

FinCEN notes that in addition to preparing their own systems for compliance with the Final Rule, Providers may also need to negotiate new contracts with their distributors and retailers in order to clarify the status of their products under the Final Rule. However, FinCEN states it has learned that Providers are differently situated than Sellers, and some are currently capable of complying with the three basic requirements listed above. In fact, FinCEN believes many aspects of the Final Rule are already common business practices for Providers, and thus they will be able to comply with those aspects of the Final Rule by the original effective date of Sept. 27.

No Enforcement Prior to March 31, 2012

FinCEN states that for both Providers and Sellers, it will not initiate any compliance matter or enforcement action prior to March 31, 2012 for violations of the Final Rule, nor will it assess any civil money penalties for violations that occur prior to March 31, 2012.

FinCEN's announcement of this administrative relief is available at <http://fincen.gov/whatsnew/html/20110909.html>

Our previous client alert on the Final Rule may be viewed at <http://www.bankbryancave.com/2011/09/fincen-issues-final-rule-on-prepaid-access/>

If you have any questions or would like more information about FinCEN's prepaid access Final Rule, please contact Kris Andreassen or Judie Rinearson.

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