



LSTA Publishes Updated KYC Guidance

October 22, 2018 - Today the LSTA has published updated “LSTA Guidance: KYC Considerations for Syndicated Lending and Loan Trading”. In the light of FinCEN’s new Beneficial Ownership Rule with which covered financial institutions had to comply by May 11, 2018, the LSTA’s KYC Guidance had received renewed attention from our members. Because of this, we have updated that Guidance, and it now notes that primary lenders would not typically be required to identify and verify the identity of any guarantor under the applicable credit agreement. We have also received member queries about FinCEN’s recent Ruling which granted exceptive relief to covered financial institutions from certain obligations under its beneficial ownership regulation. Under that Ruling, covered financial institutions will not be required to identify and verify beneficial ownership information of legal entity customers at the time of rollovers, renewals, modifications, or extensions of certain financial products (“Renewals”). The Ruling is not particularly helpful for our market because it applies only to (i) a certificate of deposit rollover; (ii) a safe deposit rental renewal; and (iii) a Renewal that does not require underwriting review and approval. Our external counsel on this matter, Jeanine McGuinness of Davis Polk, and her colleagues discuss this in greater detail in their blog post. As noted in that blog post, although the Ruling relieves financial institutions from treating the Renewals as new accounts for purposes of the Beneficial Ownership Rule, it does not excuse financial institutions from their other requirements under the Bank Secrecy Act.