



2024 LIFE
INSURANCE
& ANNUITY
CONFERENCE

**Powering
Growth**

**Don't Miss The Red
Flags: Hot Topics in
Anti-Money Laundering**





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Agenda

- Corporate Transparency Act Implementation
- Proposed AML Rule for Investment Advisers
- Using Section 314(b) of the Patriot Act
- Implementing Effective Compliance Programs
 - Importance of AML, Cyber and SIU Teams Working Together
 - Role of AI -- Monitoring Programs
 - Real World Examples of Money Laundering through Insurers
 - Annual Risk Reviews
 - Vendor Monitoring
- Current Areas of Regulatory Focus

Corporate Transparency Act



WHO must report beneficial ownership information?

- A **reporting company** is either:
 - a domestic company created by the filing of a document with a secretary of state or similar office under the law of a U.S. state or Indian tribe; or
 - a foreign company formed under the law of a foreign country and registered to do business in the United States by the filing of a document with a secretary of state or similar office
- **23** types of entities exempted from definition of reporting company
- Reporting requirements effective:
 - **January 1, 2024** for newly created entities
 - **January 1, 2025** for pre-existing companies

No
grandfathered
entities

WHAT information must be reported?

Reporting companies must submit to FinCEN information about:

1. Each individual who is a **beneficial owner**
 - Individuals who directly or indirectly
 - Exercise **substantial control** over a reporting company; or
 - Own or control at least **25% of the ownership interests** of the company
2. **Company applicants** (only for entities created on or after January 1, 2024)
 - The individual who directly files the document that creates or first registers a reporting company; and
 - The individual who is primarily responsible for directing or controlling such filing (if more than one individual is involved in the filing)
3. The **reporting company** itself

WHAT information must be reported? (cont.)

| Reporting Company | Beneficial Owners and Company Applicants |
|---|---|
| <ul style="list-style-type: none">• Full legal name• Trade or “doing business as” names• Street address of its principal place of business in the United States• Jurisdiction of formation/first registration to do business in the United States• TIN/foreign tax identification number and name of the issuing jurisdiction | <ul style="list-style-type: none">• Full legal name• Date of birth• Residential street address (or business address for company applicant)• Identifying number + issuing jurisdiction from a non-expired U.S. passport, state or local identification document or driver’s license or foreign passport• Image of document from which the unique identifying number was obtained |

This information, once submitted, must be kept up to date.

WHEN is a report due?

- Entities created or registered to do business before January 1, 2024 must file an initial report by January 1, 2025
- Entities created or registered on or after January 1, 2024 must file an initial report within **90 days** of the date of notice (to the company or the public) that the company has been created or registered to do business

| Date of Creation or Registration | Initial Report Deadline |
|----------------------------------|--|
| Before Jan. 1, 2024 | January 1, 2025 |
| Jan. 1, 2024 – Dec. 31, 2024 | Within 90 days of notice of creation or registration |
| On or after Jan. 1, 2025 | Within 30 days of notice of creation or registration |

- Updates or corrections to BO reports must be submitted within **30 days**, including an initial report after an entity no longer qualifies for an exemption

Exemptions from Reporting Company Definition

1. Securities reporting issuer
2. Governmental authority
3. Bank
4. Credit union
5. Depository institution holding company
6. FinCEN-registered money services business
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other SEC-registered entity under Exchange Act
10. SEC-registered investment company or investment adviser
11. Venture capital fund adviser
12. Insurance company
13. State-licensed insurance producer
14. Commodity Exchange Act-registered entity
15. Registered public accounting firm
16. Regulated public utility
17. FSOC-designated financial market utility
18. Pooled investment vehicle
19. Tax-exempt entity
20. Entity assisting a tax-exempt entity
21. Large operating company
22. Subsidiary of certain exempt entities
23. Inactive entity



Definition of **Subsidiary**

FinCEN January 12, 2024 FAQ:

L. 6. Does a subsidiary whose ownership interests are partially controlled by an exempt entity qualify for the subsidiary exemption?

No. **If an exempt entity controls some but not all of the ownership interests of the subsidiary, the subsidiary does not qualify. To qualify, a subsidiary's ownership interests must be *fully, 100 percent* owned or controlled by an exempt entity.**

A subsidiary whose ownership interests are controlled or wholly owned, directly or indirectly, by certain exempt entities is exempt from the BOI reporting requirements. **In this context, control of ownership interests means that the exempt entity **entirely controls** all of the ownership interests in the reporting company,** in the same way that an exempt entity must wholly own all of a subsidiary's ownership interests for the exemption to apply.

Proposed AML/SAR Requirements for Investment Advisers



Investment Adviser AML Proposal

Proposal would cover –

- SEC-registered investment advisers
- Exempt reporting advisers

Proposal would result in such Covered IAs being included in the definition of “Financial Institution” for purposes of the Bank Secrecy Act

- AML program requirements (all 5 pillars)
- SAR requirements
- Section 314(a)/314(b) reporting
- Section 312 requirements
- Section 311 special measures
- CTR reporting
- Travel Rule and Recordkeeping obligations



AML Proposal – Key Open Items and Issues

- Will this proposal be finalized?
 - This is FinCEN's 3d attempt at this rulemaking
 - There is little time before the election to take comments and finalize
- Is the scope correct?
 - Does the proposal adequately recognize the differences between the business models of advisers vs other financial institutions?
- Will advisers be able to outsource requirements/obligations?
- In the funds context, can offshore administrators/service providers be used?
- Comment period ended on **April 15**



Using 314(b) of the Patriot Act



What is 314(b)?

Section 314(b) of the U.S.A. P.A.T.R.I.O.T. Act which allows financial instructions (including banks, credit unions, MSBs, securities broker-dealers, insurance companies, etc.) to share information with one another in order to identify for reporting financial activity possibly involving money laundering* or terrorist financing.

* Includes specified unlawful activity (SUA) federal crimes that are in addition to classic money laundering offenses.

314(b) Participation Among FIs Is Low

| Type of Financial Institution | Total Number | Number Filing SARs | Percentage Filing SARs | Number Participating in 314(b) Program | Percentage Participating in 314(b) Program |
|---|---------------|--------------------|------------------------|--|--|
| Depository Institutions (Banks and Credit Unions) | 10,422 | 8,171 | 78.4% | 4,235 | 40.6% |
| Money Services Businesses | 22,736 | 2,069 | 9.1% | 448 | 2.0% |
| Securities Futures (Broker Dealers) | 4,269 | 587 | 13.8% | 1,852 | 43.4% |
| Casinos* | 2,148 | 667 | 31.1% | 293 | 13.6% |
| Insurance Companies** | 5,965 | 129 | 2.2% | 153 | 2.6% |
| All Others | 13,000 | 525 | 4.0% | 218 | 1.7% |
| Total*** | 58,540 | 12,148 | 20.8% | 7,199 | 12.3% |

* total number from World Casino Directory

** total number from Insurance Information Institute

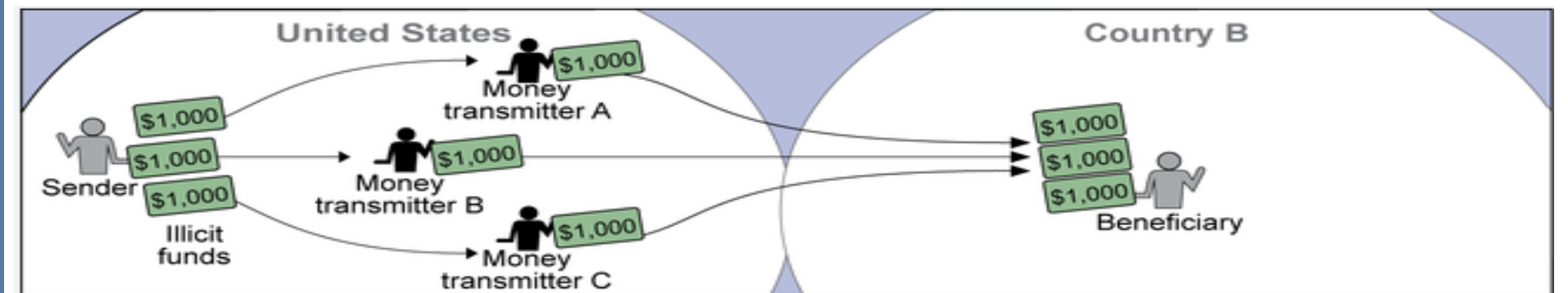
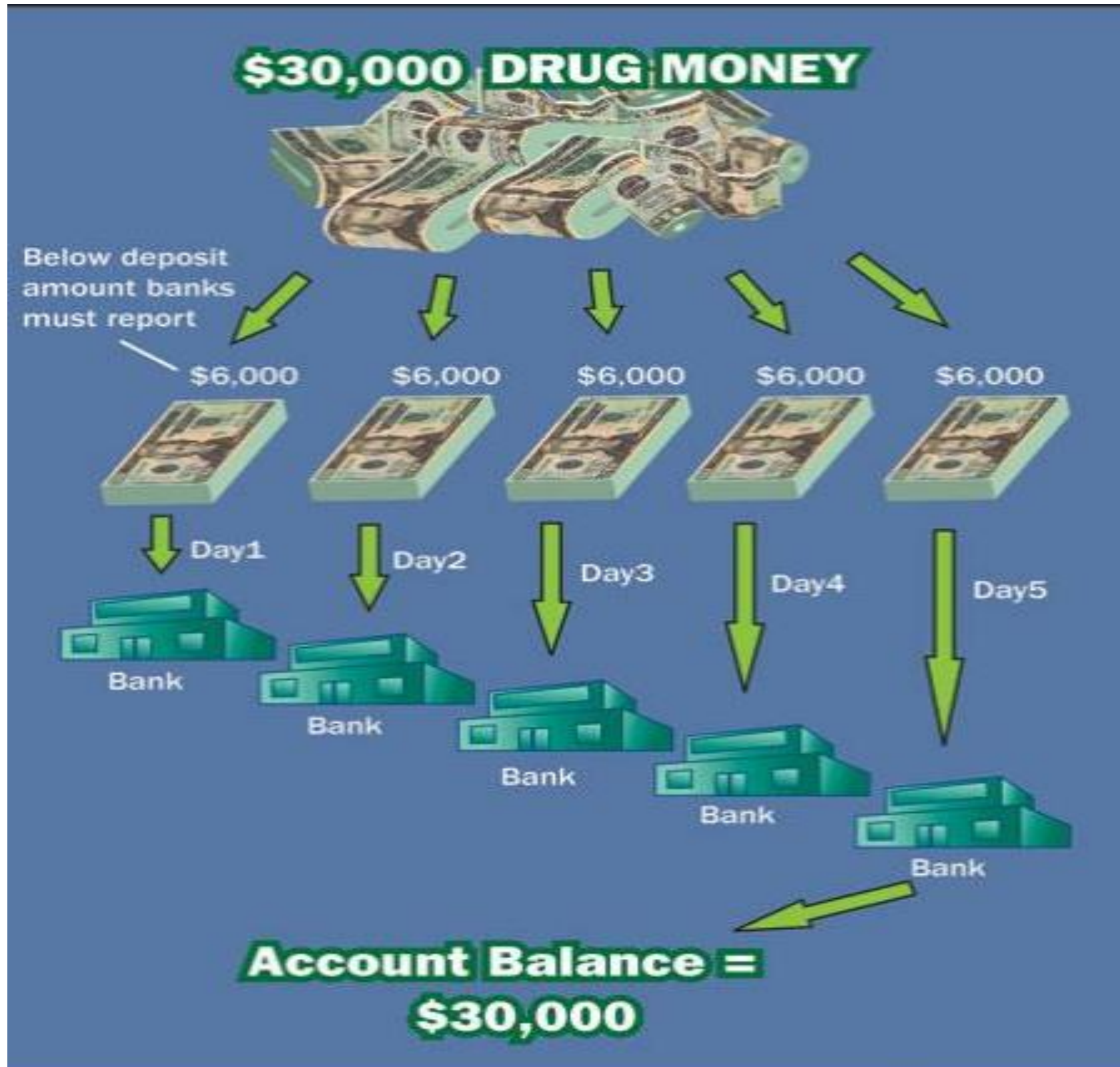
*** total number does not include the seven 314(b) Associations

What are the Benefits of 314(b) Voluntary Information Sharing?

While information sharing pursuant to Section 314(b) is voluntary, it can help financial institutions enhance compliance with their anti-money laundering/counter-terrorist financing (AML/CFT) requirements, most notably with respect to:

- Gathering additional information on customers or transactions potentially related to money laundering or terrorist financing, including previously unknown accounts, activities, and/or associated entities or individuals.
- Shedding more light upon overall financial trails, especially if they are complex and appear to be layered amongst numerous financial institutions, entities, and jurisdictions.
- Building a more comprehensive and accurate picture of a customer's activities that may involve money laundering or terrorist financing is suspected, allowing for more precise decision-making in due diligence and transaction monitoring.
- Alerting other participating financial institutions to customers of whose suspicious activities they may not have been previously aware.
- Facilitating the filing of more comprehensive SARs than would otherwise be filed in the absence of 314(b) information sharing.
- Identifying and aiding in the detection of money laundering and terrorist financing methods and schemes.
- Facilitating efficient SAR reporting decisions - for example, when a financial institution obtains a more complete picture of activity through the voluntary information sharing process and determines that no SAR is required for transactions that may have initially appeared suspicious.

Possible Structuring in Transactions



314(b) can also be used for SUAs!



List of Specified Unlawful Activities (SUA)

Violations of federal and state or foreign law identified as “specified unlawful activity” under 18 U.S.C. § 1956(c)(7)

Title: Section: Violations of Federal Law Relating to:

| | | |
|----|------|---|
| 18 | 152 | Bankruptcy (concealment of assets; false oaths and claims; bribery) |
| 18 | 1001 | Fraud and False Statements |
| 18 | 1014 | Fraud And False Statements (fraudulent loan and credit applications) |
| 18 | 1341 | Mail Fraud (frauds and swindles) |
| 18 | 1343 | Wire Fraud (fraud by wire, radio, or television) Involving a Health Care Offense |
| 18 | 1344 | Bank Fraud (defrauding a federally chartered or insured financial institution) |
| 18 | 1956 | Racketeering (laundering of monetary instruments) |
| 18 | 1957 | Racketeering (engaging in monetary transactions in property derived from specified unlawful activity) |
| 21 | 841 | Drug Abuse Prevention And Control (felony violations of certain prohibited acts) |
| 21 | 842 | Drug Abuse Prevention And Control (subsequent violations of subparagraph (A) after one or more prior convictions of a drug-related offense) |

| | | |
|----|-----|--|
| 21 | 846 | Drug Abuse Prevention And Control (attempt and conspiracy to commit any felonious offense defined in Subchapter I) |
| 21 | 848 | Drug Abuse Prevention And Control (continuing criminal enterprise) |
| 21 | 854 | Drug Abuse Prevention And Control (investment of illicit drug profits obtained from a felonious violation of either Subchapter I or Subchapter II) |
| 21 | 856 | Drug Abuse Prevention And Control (establishment of manufacturing operations) |

Any Act Or Threat (chargeable under State Law and punishable by imprisonment for more than one year) Involving:

- * Murder
- Kidnapping
- Gambling
- Arson
- Robbery
- Bribery
- Extortion
- Dealing In Obscene Matter
- Dealing in a Controlled Substance or Listed Chemical (as defined in 21 U.S.C. § 802)



Implementing Effective Compliance Programs

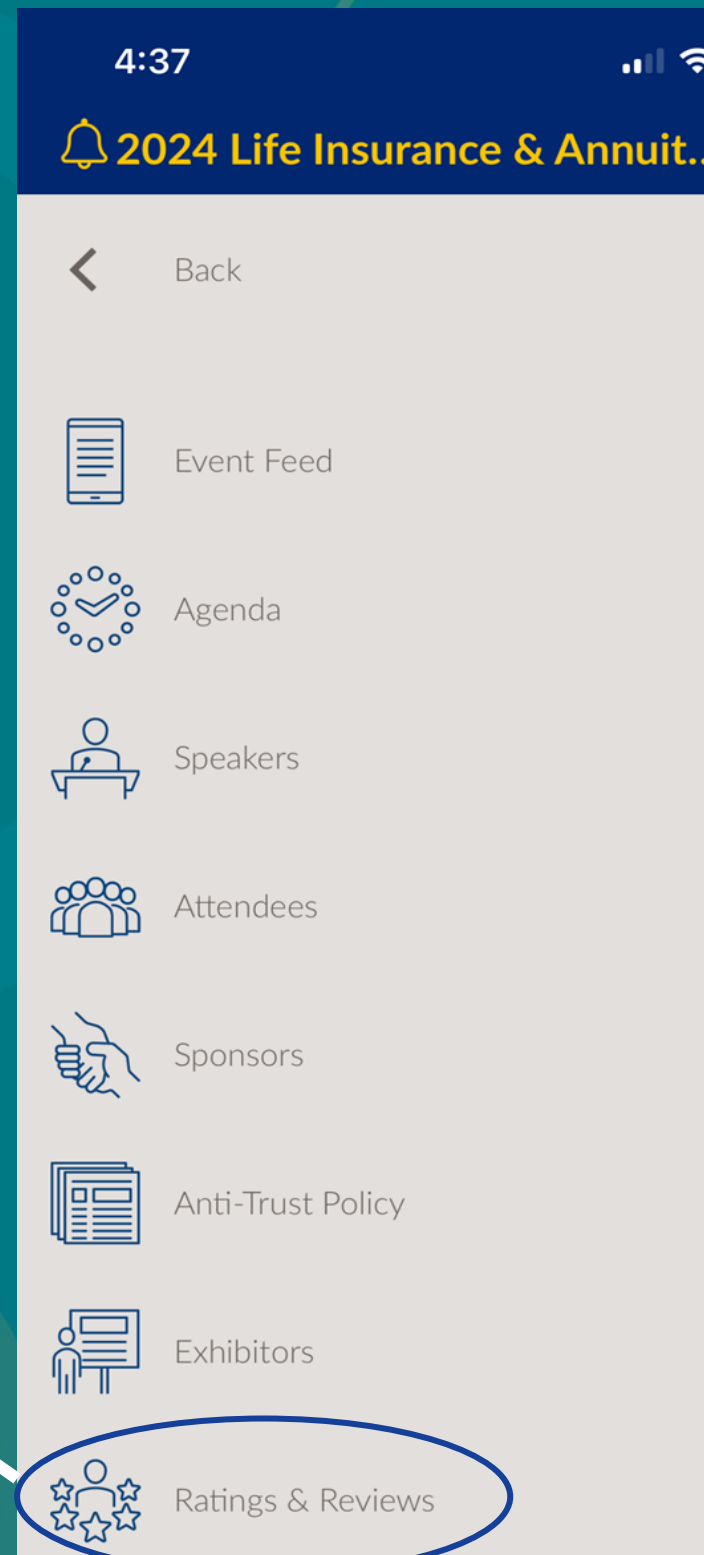


Compliance Program Effectiveness

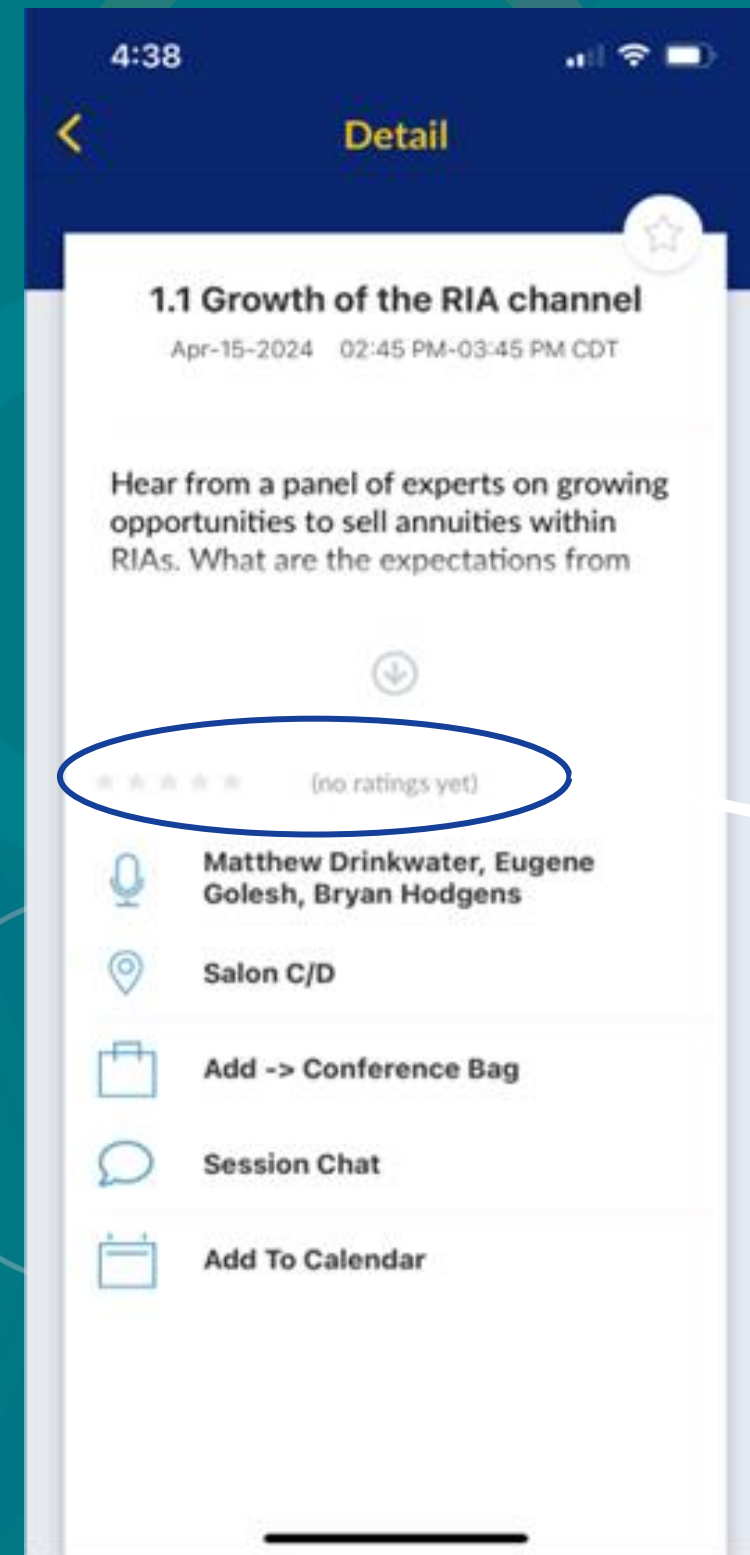
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Please Provide Your Feedback on the Conference App

OPTION 1



OPTION 2



Thank You

