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## New Rule Provides Broad Exemptions From Beneficial Ownership Reporting

By Maureen Leddy, Checkpoint

Treasury's Financial Crimes Enforcement Network (FinCEN) released an interim final rule Friday that will apply the Corporate Transparency Act's beneficial ownership information reporting requirements only to foreign entities and foreign nationals.

The [rule](#), shared by FinCEN on March 21 in a [press release](#), puts into place previously announced plans to limit the reach of the CTA's reporting requirements. Specifically, the rule revises the definition of "reporting company" to include only entities formed under the law of a foreign country that has registered to do business in any U.S. State or Tribal jurisdiction. The change effectively exempts domestic entities from the reporting requirements.

The rule also excepts foreign entities and their U.S. beneficial owners from reporting U.S. persons' beneficial ownership information.

In addition, the rule revises reporting requirements for foreign pooled investment vehicles. For those where no non-U.S. person exercises substantial control, a beneficial ownership report is not required.

**New deadlines for foreign entities.** Reporting deadlines for foreign entities have been extended beyond the previous January 1, 2025, deadline under the interim final rule.

For entities that are currently registered to do business in the U.S., reports are now due 30 days after the rule is published in the Federal Register. Newly registered entities will have 30 days from receiving notice that their registration is effective to file their reports.

The rule will become effective once it is published in the Federal Register - however, it was unclear on

Monday when publication would occur.

**Reasoning for the change.** According to the rule preamble, alternative sources of information - such as the continuing requirement for covered financial institutions to collect customers' beneficial ownership information when an account is opened - will mitigate some of the risks associated with exempting domestic entities from the CTA's reporting requirements.

Treasury also points to the Financial Action Task Force's Report on the Concealment of Beneficial Ownership, where "of the cases analyzed by FATF that included shell companies, the majority included a corporation located in a foreign jurisdiction." This demonstrates that foreign companies registered to do business in the U.S. "pose a heightened risk to U.S. national security," said Treasury.

Cost was also a major factor, with FinCEN citing the expected initial compliance costs at \$21.7 billion in year 1 and \$3.3 billion annually in subsequent years. The costs for report updates were put at \$1 billion in year 1 and \$2.3 billion in subsequent years. The average the costs associated with the interim final rule would be approximately \$9 billion lower per year, said FinCEN.

**Authority for the change.** Treasury explains in the rule preamble that it is relying on 31 U.S.C. 5336(a)(11)(B)(xxiv) to exempt domestic entities from the reporting requirements. That provision allows Treasury, in consultation with the Attorney General and Homeland Security, to provide an exemption from the reporting requirements for a class of entities. An exemption is only available where reports "would not serve the public interest" and "would not be highly useful in national security, intelligence, and law enforcement agency efforts to detect, prevent, or prosecute money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or other crimes."

As far as exempting reporting for U.S. persons who are beneficial owners of a foreign entity or who exercise substantial control over foreign pooled investment vehicles, Treasury relies on 31 U.S.C. 5318(a)(7). That provision grants the agency general authority to provide exemptions from certain requirements related to monetary transactions, including the CTA's beneficial ownership reporting requirements.

And Treasury said it chose to adopt the changes via an interim final rule because it was impractical to go through the ordinary rulemaking process of providing notice, soliciting public comments, and reviewing those comments before March 21, 2025 - the agency's self-imposed deadline for revising the reporting rule.

The agency also points to a CTA provision that gives FinCEN discretion to extend reporting deadlines for most entities until two years after the effective date of the final reporting rule - namely, until January 1, 2026.

**Comments.** Comments on the interim final rule are due 60 days after the rule is published in the Federal Register and may be submitted by mail or via the [federal e-rulemaking portal](#) (RIN 1506-AB49).

**Reactions.** When Treasury announced the shift earlier this month, National Small Business

Association's Todd McCracken praised the Trump administration "for seeing this law for what it is: a massive burden on America's job creators which will do next to nothing to actually stop money-laundering." NSBA is a plaintiff in one of the many lawsuits filed around the country challenging the CTA on constitutional grounds.

The American Institute of CPAs' Mark Koziel also praised FinCEN for recognizing "the challenges faced by businesses" under the CTA and its "decision to forego fines or take enforcement actions against domestic entities and U.S. citizens."

However, not all support the shift in focus to foreign entities. According to the FACT Coalition, the change excludes over 99% of previously covered entities from the reporting requirements.

The George W. Bush Institute's Albert Torres cautioned the shift will impact efforts to combat issues like fentanyl trafficking, terrorism financing, and foreign corruption. The interim final rule "would hinder the efforts of law enforcement and the administration in addressing these issues," Torres added, "and should be considered during the rulemaking process."

According to Transparency International's Scott Greytak, now "criminals can evade" the CTA "by simply starting and running those front companies inside the United States." And that's not just a prediction - Greytak said "the record of criminals forming companies inside the United States in order to commit their crimes is well-documented." He pointed to a Chinese drug trafficking organization that used front companies formed in Massachusetts and anonymous companies "used by Iran to evade sanctions and by terrorist-affiliated groups to gain access to U.S. defense contracts."

What's more, Greytak added, Treasury's walk-back of the reporting requirements "ensures that the United States will be found noncompliant with baseline, globally accepted anti-money laundering and counter-financing of terrorism standards."