

Anti-Money Laundering

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FinCEN's Weekend Present: No More CTA for U.S. Companies

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As discussed in our March 4 [Client Alert](#), following its February 27 and March 2 announcements suspending enforcement of the Corporate Transparency Act (CTA) and promising additional CTA compliance guidance, on the evening of March 21, the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued an "interim final rule" narrowing the beneficial ownership information (BOI) reporting requirements under the CTA.¹

The New Interim Final Rule Explained

In the interim final rule, FinCEN narrowed the BOI reporting requirements in the following three material ways:

1. Excluding domestic companies from the definition of "reporting company"² in the CTA, effectively exempting all U.S.-domiciled companies from any reporting obligations;
2. Exempting foreign reporting companies (companies incorporated or domiciled outside of the U.S.) from providing the BOI of any U.S. beneficial owners of the reporting company, and exempting U.S. individuals from having to provide BOI to the foreign reporting companies; and³
3. Amending the foreign pooled investment vehicle "special rule," stating that these entities would not have to report any substantial control persons who are U.S. persons. Pursuant to the revised special rule, the foreign pooled investment vehicle is to report an "individual who exercises substantial control over the entity if that individual is not a United States person."⁴

Importantly, while the interim final rule exempts U.S. persons from having to provide BOI to foreign reporting companies for the CTA, this rule does not affect the foreign company's obligations in its country of origin or other jurisdictions that may necessitate collection of BOI from the U.S. beneficial owners.

In addition to the foregoing changes to the BOI reporting rules, FinCEN has granted foreign reporting companies a 30-day extension to make their initial or amended beneficial ownership information reports (BOIRs). While the interim final rule is subject to comment and will not be finalized until later this year, the changes in the interim rule and filing extension are effective immediately.

Our Take

In the interim final rule, FinCEN rationalizes the changes to the BOI reporting requirements by emphasizing that U.S. companies and U.S. persons are less of a perceived national security threat than foreign companies owned by foreign nationals.⁵ FinCEN further stated that the risks posed by U.S. companies and persons do not outweigh the compliance burden imposed by the CTA on the U.S. companies and therefore the prior BOI reporting requirements did not serve the public interest. Moreover, the majority of U.S. companies previously required to report BOI under the CTA because they did not qualify for one of the CTA's BOI reporting exemptions were primarily small businesses less equipped to comply with the CTA's reporting obligations. Additionally, FinCEN pointed out that U.S. companies already provide BOI to financial institutions, which in turn use this information to report any money laundering or terrorist financing concerns to the government.

One apparent loophole in the interim final rule is that FinCEN will not require domestic companies owned by foreign persons to report BOI. As a result, a sanctioned person, an international narco-trafficking organization, and anyone else acting on behalf of foreign bad actors theoretically can continue to create shell companies in U.S. jurisdictions in furtherance of money laundering or terrorist financing schemes without the concern that the BOI of any such shell company will need to be reported directly to FinCEN on a BOIR, which seems to be at odds with the original congressional intent underpinning the creation of the CTA.

Relatedly, the Financial Action Task Force (FATF) recommends in its international anti-money laundering guidelines that member nations, including the U.S., create a database for all beneficial owners, whether domestic or foreign. The failure to have such a comprehensive database likely will be raised as a deficiency during the FATF's next evaluation of the U.S.'s anti-money laundering control framework. The current revisions to the CTA mean that the U.S. will continue to be out of line with other FATF member states.

Additionally, though not unexpected, the interim final rule does not provide any remedies for U.S. entities that have already filed a BOIR, such as the ability for the company to remove the BOIR from FinCEN's database. Accordingly, domestic reporting companies that have already filed a BOIR pursuant to the CTA must assess whether to provide updated BOI when and if previously reported information changes or to allow stale ownership information to continue to reside on FinCEN's database.

Conclusion

Lowenstein will continue to report on changes to the CTA,⁶ including any changes to the interim final rule once the rule is finalized later this year. For more information or clarifications to this Client Alert, please contact your primary Lowenstein Sandler attorney or the Lowenstein Sandler CTA team at lsamlcta@lowenstein.com.

¹ See "FinCEN Removes Beneficial Ownership Reporting Requirements for U.S. Companies and U.S. Persons, Sets New Deadlines for Foreign Companies," March 21, 2025, [available here](#). For the full text of the interim final rule, see "Beneficial Ownership Information Reporting Requirement Revision and Deadline," March 21, 2025, [available here](#).

² Previously, "domestic reporting company" was defined as "a corporation; a limited liability company; or other entity that is created by the filing of a document with a secretary of state or any similar office under the law of a state or Indian tribe." 31 CFR 1010.380(c)(1)(i). Under the interim final rule, this same definition is applied in the exemption section of the CTA. 31 CFR 1010.380(c)(2).

³ 31 CFR 1010.380(d)(4)(iii).

⁴ *Id.*

⁵ *Id.*

⁶ For prior Lowenstein coverage of the CTA, see, e.g., "FinCEN Announces No Fines or Penalties Under the CTA Pending New Rulemaking, New Narrowed Enforcement Scope," March 4, 2025, [available here](#), "Back to the Future: Compliance with the CTA is Compulsory Once Again," Feb. 20, 2025, [available here](#).

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