

U.S. DEPARTMENT OF THE TREASURY

Press Center



Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion

5/5/2016

Secretary Lew Calls on Congress to Help Increase Financial Transparency

WASHINGTON – Today, the U.S. Department of the Treasury announced several actions to strengthen financial transparency and combat the misuse of companies to engage in illicit activities. Treasury announced a Customer Due Diligence (CDD) Final Rule, proposed Beneficial Ownership legislation, and proposed regulations related to foreign-owned, single-member limited liability companies (LLCs). Together, these efforts target key points of access to the international financial system – when companies open accounts at financial institutions, when companies are formed or when company ownership is transferred, and when foreign-owned U.S. companies seek to evade their taxes.

Secretary Lew today highlighted these efforts in a letter to Congress, and urged Congress to act on important new authorities. These include passing Beneficial Ownership legislation, providing full reciprocity with our Foreign Account Tax Compliance Act (FATCA) partners, and approving bilateral tax treaties currently pending in the Senate.

“The Treasury Department has long focused on countering money laundering and corruption, cracking down on tax evasion, and hindering those looking to circumvent our sanctions. Building on years of important work with stakeholders, the actions we are finalizing today mark a significant step forward to increase transparency and to prevent abusive conduct within the financial system.” said Treasury Secretary Jacob J. Lew.

CDD Final Rule

The CDD Final Rule adds a new requirement that financial institutions – including banks, brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities – collect and verify the personal information of the real people (also known as beneficial owners) who own, control, and profit from companies when those companies open accounts. The Final Rule also amends existing Bank Secrecy Act (BSA) regulations to clarify and strengthen obligations of these entities.

The CDD Final Rule harmonizes BSA regulations and makes explicit several components of customer due diligence that have long been expected under existing regulations, as well as incorporating a new requirement for covered financial institutions to collect beneficial ownership information. Specifically, the rule contains three core requirements: (1) identifying and verifying the identity of the beneficial owners of companies opening accounts; (2) understanding the nature and purpose of customer relationships to develop customer risk profiles; and (3) conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information. With respect to the new requirement to obtain beneficial ownership information, financial institutions will have to identify and verify the identity of any individual who owns 25 percent or more of a legal entity, and an individual who controls the legal entity. Based upon comments received in response to the proposed rule that was published in August 2014, the final rule extends the proposed implementation period from one year to two years, expands the list of exemptions, and makes use of a standardized beneficial ownership form optional as long as a financial institution collects the required information.

The CDD Final Rule advances the BSA by making available to law enforcement valuable information needed to disrupt illicit finance networks. This will in turn increase financial transparency and augment the ability of financial institutions and law enforcement to identify the assets and accounts of criminals and national security threats. This will also facilitate compliance with sanctions programs and other measures that cut off financial flows to these actors.

Beneficial Ownership Legislation


Also today, Treasury announced it is sending beneficial ownership legislation to Congress. The Administration is committed to working with Congress to pass meaningful legislation that would require companies to know and report adequate and accurate beneficial ownership information at the time of a company’s creation, so that the information can be made available to law enforcement. As part of the legislation outlined today, companies formed within the United States would be required to file beneficial ownership information with the Treasury Department, and face penalties for failure to comply. The misuse of companies to hide beneficial ownership is a significant weakness in the U.S. anti-money laundering/counter financing of terrorism regime that can only be resolved by Congressional action. The new draft legislation is an amended version of an Administration Budget proposal, reflecting discussions with Congress, law enforcement entities, and others.

The proposed legislation also contains technical amendments to the current Geographic Targeting Order (GTO) authority which would clarify FinCEN’s ability to collect information under GTOs, such as bank wire transfer information. The most recent GTOs temporarily require certain U.S. title insurance companies to record and report the beneficial ownership information of legal entities making “all-cash” purchases of high-value residential real estate. All-cash purchases may be conducted by individuals attempting to hide their assets and identity by purchasing residential properties so these GTOs assist the U.S. government in better understanding potential illicit finance vulnerabilities in our real estate sector. This January, FinCEN issued GTOs focused on the Borough of Manhattan in New York City, New York, and Miami-Dade County, Florida. FinCEN intends to evaluate the information it gains from these GTOs and determine what next steps would best protect the U.S. financial system from criminal abuse. Options could include broadening the GTOs to other areas, or using the information to inform a more comprehensive rulemaking.

Foreign-Owned Single-Member LLC Proposed Regulations

Treasury also announced proposed regulations to require foreign-owned “disregarded entities,” including foreign-owned single-member limited liability companies (LLCs), to obtain an employer identification number (EIN) with the IRS. Overall, our federal tax system has very strong information reporting requirements for most types of entities formed in the United States. These requirements allow the IRS to determine whether there is any federal tax liability and if so, how much, and to share information with other tax authorities as appropriate. However, there is a narrow class of foreign-owned U.S. entities – typically single member LLCs– that have no obligation to report information to the IRS or to get a tax identification number. These “disregarded entities” can be used to shield the foreign owners of non-U.S. assets or non-U.S. bank accounts. Once these regulations are finalized, they will allow the IRS to determine whether there is any tax liability, and if so, how much, and to share information with other tax authorities. This will strengthen the IRS’s ability to prevent the use of these entities for tax avoidance purposes, and will build on the success of other efforts to curb the use of foreign entities and accounts to evade U.S. tax.

Read Secretary's letter to Congress [here](#) .

Read the proposed beneficial ownership legislation [here](#) .

###