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Treasury suspends enforcement of CTA and BOI Reporting Rule against U.S. companies and citizens

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The Treasury Department's decision to suspend enforcement of the CTA and BOI Reporting Rule means that beneficial ownership reporting under the CTA is now voluntary for U.S. citizens and domestic reporting companies. The Treasury Department intends to narrow the scope of the BOI Reporting Rule to foreign reporting companies in a forthcoming rulemaking.

The U.S. Treasury Department announced on March 2, 2025 that it has suspended enforcement of the Corporate Transparency Act (CTA) and Beneficial Ownership Information Reporting Rule (BOI Reporting Rule) against U.S. citizens and domestic reporting companies.[1] In effect, this means that BOI reporting is now **voluntary** for U.S. citizens and companies. Importantly, however, the Treasury Department intends to narrow the scope of the BOI Reporting Rule to apply to foreign reporting companies only in a forthcoming rulemaking (note, Congress extended the reporting requirements of the CTA to both U.S. and foreign companies).[2]

As noted in a prior client update, FinCEN recently announced that it would issue an interim final rule to establish new BOI reporting deadlines. Presumably, FinCEN will continue with its plan to issue an interim final rule by March 21 to establish new reporting deadlines for foreign reporting companies only, thereby giving the announcement the force of law. Accordingly, **we recommend that domestic and reporting companies continue to monitor for any updates from Treasury and FinCEN.**

Looking forward

For those following developments on the CTA and BOI Reporting Rule, the latest announcement represents some stability in what has become an exceptionally chaotic regulatory environment that has left reporting companies in a near-constant state of confusion since December. Assuming the Treasury Department's announcement does not change between now and whenever it amends the scope of the BOI Reporting Rule through the rulemaking process, domestic reporting companies will no longer be required to comply with the CTA and BOI Reporting Rule. That said, foreign reporting companies *will* continue to be subject to the CTA, even after FinCEN amends the scope of the BOI Reporting Rule.

While the announcement is a welcome development for domestic reporting companies, there are a number of points that reporting companies should consider as we wait for further guidance from Treasury:

1. The BOI Reporting Rule will change, but it remains to be seen when exactly the changes will occur and through what process. Just last week, the Treasury Department announced that it would issue an interim final rule in order to establish new reporting deadlines for all reporting companies. However, in its latest announcement, Treasury noted that it will amend the scope of the BOI Reporting Rule in a "proposed rulemaking." Given the subtle shift in language between the press releases, it remains to be seen how exactly Treasury and/or FinCEN will codify the decision to narrow the scope of the BOI Reporting Rule. We expect that Treasury will issue an interim final rule that will amend the language and scope of the BOI Reporting Rule to apply to foreign reporting companies only, while simultaneously issuing a notice of proposed rulemaking that would impose the same or a similar requirement in a final rule. That said, given the dynamic environment and pace of change, we cannot predict with certainty what Treasury and FinCEN's next steps will be from a rulemaking perspective.

2. Congress may amend the CTA. As mentioned in our previous client updates, reporting companies should also continue to monitor for CTA-related developments in Congress. While the proposed amendments to the CTA to date have generally focused on extending the reporting deadline for reporting companies, we may see Congress amend the CTA, e.g., to only apply to foreign reporting companies, thereby aligning the CTA with the narrower scope that Treasury intends to impose through the rulemaking.

3. A lack of enforcement against U.S. citizens, or a requirement for them to comply, could result in foreign reporting companies filing incomplete or inaccurate BOI reports. In certain instances, U.S. citizens may qualify as beneficial owners of foreign reporting companies (e.g., if a U.S. citizen is a senior officer of a foreign reporting company, the U.S. citizen qualifies as beneficial owner of the foreign reporting company). However, because U.S. citizens will not be subject to enforcement under the CTA and BOI Reporting Rule, this scenario raises two important questions: (1) whether U.S. citizens are required to provide their BOI to a foreign reporting company in the event the U.S. citizen qualifies as the foreign reporting company's beneficial owner; and (2) if a U.S. citizen chooses not to (or is not required to) provide their BOI to a foreign reporting company, whether Treasury would hold the foreign reporting company liable for failing to submit a complete and accurate BOI report. These are important questions for Treasury and FinCEN to consider as the BOI Reporting Rule is amended.

4. Although the Treasury Department may choose not to enforce the CTA and BOI Reporting Rule, the law still remains effective until the CTA and/or the BOI Reporting Rule are amended. Thus, as of this time, all reporting companies are still technically subject to the current requirements under the CTA and BOI Reporting Rule (this may no longer be the case if and when Treasury/FinCEN issues an interim final rule that only imposes reporting requirements on foreign reporting companies). While there may be no risk of legal enforcement for domestic reporting companies, if Treasury does not amend the scope of the BOI Reporting Rule through the rulemaking process (or Congress does not amend the CTA through the legislative process), a failure to comply with the CTA and BOI Reporting Rule could have commercial consequences if, for example, a domestic reporting company has agreed to comply with the CTA and BOI Reporting Rule in its commercial agreements.

5. Could plaintiffs challenge Treasury's suspension of enforcement? The CTA and BOI Reporting Rule have been subject to numerous legal challenges[3] and it is certainly possible that a group of plaintiffs will challenge whether the Treasury Department can unilaterally suspend enforcement of the CTA and narrow the scope of the law. The Trump Administration is executing on an aggressive strategy to reshape the administrative state and expand Executive powers, which has resulted in a slew of legal challenges from state officials and other advocates. The question here, however, is which plaintiffs have standing *and* a willingness to take the position that Treasury should enforce a law that is widely unpopular and burdensome for regulated entities. And, even if there are such plaintiffs, it could be months and years before such challenges are resolved in the courts.

6. What does this mean for reporting companies who have already submitted BOI reports to FinCEN? Treasury has not provided any guidance or clarity on what FinCEN will do with the BOI reports already submitted to the BOI registry. Further, while Treasury will suspend enforcement of the CTA, we expect that Treasury and FinCEN will continue to safeguard any BOI within the registry in accordance with the CTA and Access Rule (which we describe in this client update).[4] We recommend that reporting companies that have already submitted BOI reports raise the issue when FinCEN issues its proposed rulemaking to amend the scope of the BOI Reporting Rule.

7. How will the forthcoming changes to the BOI Reporting Rule impact FinCEN's approach to amending the Customer Due Diligence (CDD) Rule? Pursuant to the CTA, FinCEN intended to issue a rulemaking that would align the CDD Rule with the BOI Reporting Rule and, purportedly, reduce the regulatory burden for covered financial institutions who play a critical role in collecting and storing BOI. As discussed in a prior client update here, the BOI Reporting Rule diverges from the CDD Rule in significant ways (e.g., the definition of "beneficial owner" in the Beneficial Ownership Rule is significantly broader than the definition under the CDD Rule) and the industry expected that FinCEN would, among other things, align the definitions between the rules. If FinCEN continues with its plan to textually align the CDD Rule with the BOI Reporting Rule, then the agency would undermine Treasury's purported mission to reduce regulatory burden, as covered financial institutions would be required to collect significantly more information from their legal entity customers and would not have the benefit of a fulsome BOI registry. While it remains to be seen, given the regulatory goals of the current administration, Treasury and/or FinCEN may instead look for opportunities to streamline, rather than broaden, the CDD Rule's requirements.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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[1] Under the BOI Reporting Rule, "domestic reporting companies" are defined to include corporations, limited liability companies, and any other entities created by the filing of a document with a secretary of state or any similar office in the United States.

[2] Under the BOI Reporting Rule, "foreign reporting companies" are defined to include entities (including corporations and limited liability companies) formed under the law of a foreign country that have registered to do business in the United States by the filing of a document with a secretary of state or any similar office.

[3] For example, on March 3, 2025, a federal district court in Michigan held that the CTA and BOI Reporting Rule result in an unreasonable search in violation of the Fourth Amendment and entered a judgment permanently enjoining enforcement of the CTA against the named plaintiffs and their members. *See Small Business Association of Michigan v Yellen,* Case No. 1:24-cv-413 (*W.D Mich 2025*). District courts in Alabama and Texas have also ruled that the CTA exceeds the Constitution's limits on Congress's powers to regulate commerce, oversee foreign affairs and national security, and impose taxes and related regulations—we discuss both cases in our client updates here and here, respectively.

[4] Despite the broad language in the headline, Treasury's press release indicates that it is primarily focused on suspending enforcement of the reporting requirements under the CTA and BOI Reporting Rule, not the Access Rule. While we expect that FinCEN will continue to safeguard the BOI stored the registry, there may be interruptions to FinCEN's phased rollout of access to the BOI registry, given the shift in value the registry provides to parties to whom FinCEN will grant access.