



PRESS RELEASE

Treasury issues new rules on customer due diligence: Transparency International-USA points out that gaps remain and more action is needed

Washington D.C., May 6, 2016 – Transparency International-USA welcomes the Department of Treasury’s issuance of final rules setting forth explicit requirements for financial institutions to identify the beneficial owners of legal entity customers as a first step but calls for more action to address the misuse of anonymous companies.

“Financial institutions have a crucial role to play as the first line of defense against the transfer of corrupt funds. It is common for those trying to conceal their involvement in bribery and other forms of corruption to hide their identities behind complex webs of shell companies,” said Claudia J. Dumas, President and CEO of TI-USA.

While TI-USA supports the efforts of the U.S. Treasury and specifically FinCEN’s efforts to address the need to collect beneficial owner information on the natural persons behind legal entities, the rule has significant gaps.

The rules do not sufficiently capture those who can control an anonymous company because in the definition of “control,” it conflates senior management and executive officers of corporate entities with the beneficial owners. Often officials named in leadership positions in anonymous companies are figureheads and control of the entity is exercised through other means-- a problem highlighted by the recently released Panama Papers. TI-USA proposes that financial institutions focus on capturing information about individuals who exercise control of the legal entity for their due diligence purposes.

The rules also do not extend the requirement to collect beneficial ownership information to accounts established before the rules’ implementation date, creating a major gap in information collected. It is essential that financial institutions are required to obtain customer due diligence information on existing accounts utilizing a risk-based approach with the understanding that financial institutions would need additional time to complete such actions on existing accounts.

“In addition to identifying the beneficial owner of their corporate clients as required by the rules, financial institutions should carry out appropriate due diligence to determine the reasonableness of the information provided to them including to identify instances such as when kleptocrats use nominees, or if the information provided by the account openers does not stand up to scrutiny, or there are suspicions that the identity of the beneficial owner is not as it is being portrayed,” said Shruti Shah, Vice President for Programs and Operations at TI-USA.

The collection and verification of information by financial institutions is an important component in attacking the ability of those who control shell companies to move illicit funds through the global financial system, but additional actions are needed in the U.S. and have been identified by TI-USA. Congress should pass the Incorporation Transparency and Law Enforcement Assistance Act introduced earlier this year by Rep. Carolyn Maloney (D-NY) and Sen. Sheldon Whitehouse (D-RI) that would require either Treasury or the states to collect, maintain and update beneficial ownership information on legal entities for law enforcement purposes. Ideally, this information should be public so that corrupt individuals cannot hide behind layers of anonymous companies.

In addition, TI-USA also is calling for gatekeepers involved in luxury good purchases such as the real estate industry to be required to conduct due diligence into buyers' identities and the sources of their funds.

Over the years, the United States has committed itself to combating the flow of the proceeds of foreign corruption into the United States in a number of different fora. By adopting the reforms recommended above, the United States would send a strong signal that it is taking the necessary steps to uphold its commitments.

Transparency International-USA is the U.S. chapter of the global Transparency International movement, which is present in more than 100 countries around the world. TI-USA is committed to improving governance and combating corruption both in the United States and internationally.

Notes to Editors:

- The text of the new rules can be found [here](#).
- More information on beneficial ownership transparency can be found [here](#).
- TI-USA's previous letter to the Financial Crimes Enforcement Network (FinCEN) can be found [here](#) and [here](#).
- TI-USA's press release on the Panama Papers can be found [here](#).

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