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Advance notice of proposed rulemaking: Beneficial ownership information reporting requirements

The Financial Crimes Enforcement Network (FinCEN) of the U.S. Treasury Department today released an advance notice of proposed rulemaking addressing the procedures and standards for “reporting companies” to submit information to FinCEN about their beneficial owners (the individual natural persons who ultimately own or control the reporting companies).

The [advance notice of proposed rulemaking \(ANPRM\)](#) [PDF 301 KB] seeks comments about providing FinCEN with beneficial ownership information as well as standards for FinCEN’s maintenance and disclosure of this beneficial ownership information.

The ANPRM will be published in the Federal Register on April 5, 2021. Written comments on the ANPRM must be received by a date that is 30 days after April 5, 2021.

Overview

Section 6403 of 31 U.S.C. (the Bank Secrecy Act) concerns the new beneficial ownership information reporting requirements.

Under the Corporate Transparency Act (CTA), part of the defense authorization legislation enacted in late December 2020, corporations, limited liability companies, and other similar entities formed or registered to do business in the United States are to report their beneficial owners to the Treasury Department within certain time periods. Read [TaxNewsFlash](#).

Section 6403 of Title 31 requires “reporting companies”—corporations, limited liability companies (LLCs), and similar entities, subject to certain statutory exemptions—to submit to FinCEN specified information on their beneficial owners, defined as the individual natural persons who own or control them, as well as specified information about the persons who form or register those reporting companies.

Section 6403 of Title 31 further requires FinCEN to maintain this information in a confidential, secure, and non-public database, and it authorizes FinCEN to disclose the information to certain government agencies for certain purposes specified in the CTA, and to financial institutions to assist in meeting their

customer due diligence obligations. In both situations, these disclosures are subject to appropriate protocols to protect confidentiality.

The ANPRM seeks comment on numerous questions raised by the statutory language as FinCEN begins to develop proposed regulations implementing these provisions.

The regulations implementing the reporting requirements must be issued by January 1, 2022, with an effective date to be determined. FinCEN also is seeking comments regarding implementation of the related database maintenance use and disclosure provisions.

The ANPRM provides that the final rule on customer due diligence requirements for financial institutions will be the subject of a separate rulemaking, and that there will be made public a notice and opportunity to comment.

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