

Financial Crimes Enforcement Network (FinCEN), Treasury.

Notice of proposed rulemaking (NPRM).

Comments may be submitted by any of the following methods:

Federal E-rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2021-0005 and RIN 1506-AB49/AB59.

Dear FinCEN,

I am the Compliance Officer for Henderson State Bank, a \$275 Million dollar Bank in Henderson NE. I constructed and manage our current CDD compliance program from scratch, so I am very familiar with these requirements. I am a little at a loss in commenting on how Banks such as ours, should be given access to the Beneficial Ownership Information (BOI) when we have not been informed as to FinCEN's expectations for small Bank compliance under the new BOI regulations. I recall seeing a letter from the Financial Services Subcommittee to FinCEN that redundancy between self-reporting to FinCEN and Bank collection of CDD information was not congressional intent. So, I have more questions than I do comments for the NPRM material at this time.

Due to this lack of information, I am forced to assume commercial banks will be asked to verify, at account opening or on an annual basis for recurring customers, that the BOI self-registration information is accurate. If that is the case, I do not see why we need the customer's written permission to access this data. Most of this information is currently public record with the Secretary of State with the exception of the actual BOI ID specifics. As Banks are well versed in maintaining confidentiality and currently when accessing an individual credit report, Banks self-certify that we are doing this for a legal banking and or credit purpose. We face significant penalties if that is not the case. I see little if any difference in such a credit bureau entree versus the BOI information in question. So please do not force additional paperwork requirements where it is not needed. We have no desire to "mine" the BOI data looking for sales leads or any other lead. I would suggest that FinCEN reserve any mining of the BOI database to Government use only. As far as reporting goes, we ask that a BOI report to the Bank list all of the entities Beneficial owners are registered with. This is the only verification information that would be relevant to small FI's that I can conceive of at this time.

From our point of view, we anticipate accessing this BOI data to do whatever we will be required to do by FinCEN. If there are other beneficial uses made available to Banks, we will evaluate them as they are presented. Obviously, a corrective mechanism of some kind will need to be available should we discover the BOI data is incorrect.

We are grateful that FinCEN considered the cost and time investment by small FI's to comply. For our part I would hope that we could have multiple staff members authorized to access BOI data as we always need to cover for staff occupied elsewhere, days off, etc. At present we have just over 40 full time equivalent staff members in five locations. I would like to have at least 20 to 25 staff members available to access this data or a minimum of 3 BOI access capable staff per location. This training requirement can be further alleviated by keeping the BOI requirements and access registrations as simple as possible.

There will need to be a very robust education and public relations effort for the BOI regulation and registration aimed at the legal entity owners and managers. For our part we are attempting to begin the awareness with this Ag loan renewal cycle by giving a broad “heads up” to our legal entity customers. However, most of our customer base is very suspicious of scams and ID theft efforts. For many the thought of putting more ID information into an internet database with little if any perceived advantage to them will be met with significant reservations, if not outright hostility. We would suggest that this PR effort include what FinCEN will do, as well as what you will NOT do, in relation to this BOI regulation. One example would be FinCEN will never ask you to use gift cards to pay fees. We would also suggest you plan on providing Banks, CPA’s and the Secretary of State offices with material to be given to customers. Providing these professionals with straight forward material for their use in helping their customers will be well worth it in our opinion.

We also suggest that the simpler and more unambiguous this process is, the better overall compliance will be. Our typical legal entity customer does not change beneficial ownership often. This is usually done for estate planning or in probate. That generally overall stability in ownership why we suggest an annual certification option for BOI material, as this has worked very well for the current CDD process.

In our experience, the demographics of legal entity beneficial ownership falls mostly within the mature ages of the population. Keep this in mind please and use clear font styles and sizes, especially with any instructional content. Good color contrast overall would also be appreciated. A clear and consistent pattern of advancement in the site fields throughout the site is another recommendation. For example, a “next” action button should produce the same results to the user on each and every page of the site it is present on. Any verification testing should take the user to the field in question and not force the user to find it. We would also suggest that there be a clear, unambiguous, printable proof of registration page when the BOI data is successfully input, proving the registration was completed successfully. No small footnotes, no legalese, no asterisks.

Several other small but important things. One, we suggest that the .com, .net, .org or any other variations of the BOI FinCEN website be locked down to prevent fraudulent use. Two, perhaps the search engine organizations could be asked to refrain from posting any results, other than the actual FinCEN site for these searches? Three, CFPB will be implementing Section 1071 compliance soon. We would appreciate it if FinCEN’s BOI changes would avoid occupying the same calendar space as 1071. We simply do not have the available staff hours to do two major regulatory compliance projects at the same time, especially if these overlap of customers between them is almost total.

Thank you for your time and attention to our thoughts on this BOI access implementation. While change can be uncomfortable, we look forward to helping our customers and ourselves adjust to these new mandates. Just keep it simple, please.

Sincerely,

Kent M. Franzen VP

Henderson State bank