



UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

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*General President*

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Submitted electronically at [www.regulations.gov](http://www.regulations.gov)

Policy Division

Financial Crimes Enforcement Network

P.O. Box 39

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**RE: Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities (Docket Number FINCEN-2021-0005 and RIN 1506-AB49/AB59)**

Dear Sir or Madam:

On December 16, 2022, the Financial Crimes Enforcement Network (“FinCEN”) published in the *Federal Register* a notice of proposed rulemaking (“NPRM”) and request for comments regarding the access, use and safeguarding of beneficial ownership information (“BOI”) reporting pursuant to the Corporate Transparency Act (“CTA”), 29 U.S.C. §5336.<sup>1</sup> Public comments must be submitted on or before February 14, 2023. Please consider this submission to be the United Brotherhood of Carpenters and Joiners of America’s (“UBC”) comments regarding the NPRM.

**I. Introduction and Statement of Interest.**

With hundreds of thousands of members employed primarily in the construction and wood products industries, the UBC is one of North America’s largest building-trades unions. The UBC has a continent-wide presence composed of its international union headquarters in Washington, D.C., and approximately twenty councils, and hundreds of local unions. Since its founding, the UBC has led efforts to curb the abuse of labor in the construction industry.

The UBC has consistently encouraged improvements to make America’s construction markets fairer, safer, more productive, and more favorable for both workers and honest employers. To that end, the UBC and its affiliated councils and local unions frequently engage

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<sup>1</sup> *Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities* 87 Fed. Reg. 77404 (December 16, 2022).

with construction workers, contractors, lawmakers and federal and state law-enforcement agencies regarding the current and growing flagrant instances of serious tax fraud, insurance fraud, wage theft, labor trafficking, threats to safety, and other abuses of labor and employment laws occurring in the construction industry. It is this interest in equity, the dignity of labor, and rule of law that brings us to comment on the NPRM.

This is the second set of proposed rules to implement the CTA. The first set of rules was finalized, and it addressed the definition of beneficial owners, reporting requirements and exemptions to reporting.<sup>2</sup> The UBC filed comments on the rule when proposed<sup>3</sup> and on the earlier advanced notice of proposed rulemaking.<sup>4</sup> We incorporate herein those comments by reference.

The CTA was enacted to “protect interstate and foreign commerce,” and “better enable critical national security, intelligence, and law enforcement efforts to counter...illicit activity.”<sup>5</sup> The financial crimes in the construction industry are a very real threat to interstate commerce, and the need to enhance law enforcement capabilities to counter the threat is profound. The UBC supports this timely NPRM and has recommendations, detailed below, that will improve its effectiveness in meeting the challenges imposed by malign contractors, labor providers (whom we refer to as “labor brokers”), shell company operators, money service businesses and other co-conspirators. Meeting the challenge will require fully embracing and arming state attorneys general, district attorneys and other state regulatory and law enforcement agencies with BOI.

## **II. Criminal Activity in the Construction Industry is Widespread and Growing.**

The scope and breadth of the financial crimes in the construction industry was explained in detail in the UBC’s previous comments, but to understand our recommendations, we will review the alarming lawless schemes that have taken hold in our industry.

The construction industry is competitive by nature, which gives contractors that break the law an unfair advantage. Construction contracts are frequently awarded to low bidders. Material costs in any given market will not differ tremendously, so a way to cut costs and win bids is by

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<sup>2</sup> See, 87 Fed. Reg. 59498 (Sept. 30, 2022).

<sup>3</sup> Matthew Capece and Brian Quinn, *Beneficial Ownership Information Reporting Requirements (Docket Number FINCEN-2021-0005 and RIN 1506-AB49)*, United Brotherhood of Carpenters and Joiners of America (February 4, 2022).

<sup>4</sup> Matthew Capece and Brian Quinn, *Beneficial Ownership Information Reporting Requirements (Docket Number FINCEN-2021-0005 and RIN 1506-AB49)*, United Brotherhood of Carpenters and Joiners of America (May 5, 2021).

<sup>5</sup> NPRM, *supra* note 1 at 77413.

lowering labor expenses. Other than wages and benefits, contributing to labor costs are employment taxes, unemployment insurance contributions, workers' compensation insurance premiums, and overtime premium pay. Those labor costs are only due on the compensation of *employees*. Accordingly, to evade those costs, scofflaw contractors intentionally misclassify employees as independent contractors and issue a 1099 MISC report or simply pay them "off-the-books" by check or cash with no reporting to state or federal taxing authorities or workers' compensation insurers. A study commissioned by the attorney general's office of the District of Columbia found that contractors who fail to report their true payroll skim 16.7 to 48.1 percent off their labor costs.<sup>6</sup> Thus, breaking the law gives cheating contractors a substantial bidding advantage over law-abiding competitors.

Fraud in the industry is also aided by the layering of contractors and subcontractors. On a typical commercial or residential job site specialty subcontractors<sup>7</sup> do the actual construction work. Specialty subcontractors will have construction agreements with general contractors or directly with owners or developers. There are many ways to break the law. The simplest way for a subcontractor to break the law is by paying its employees as independent contractors or off-the-books. But that leaves the subcontractor vulnerable. To insulate themselves, subcontractors have added a layer of subcontract labor brokers. Labor brokers typically supply the bulk of the construction employees under a subcontractor's supervision. Workers for labor brokers fit federal and state employee definitions,<sup>8</sup> but, nevertheless, most are paid without tax deductions and are issued 1099 MISC forms or, more often, are paid off-the-books.<sup>9</sup> In this scheme, the labor broker is the low hanging fruit that insulates the specialty subcontractor from liability.

To protect labor brokers and further confound law enforcement, in the most "advanced" fraud schemes, the construction industry has added yet another layer—the shell company

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<sup>6</sup> Karl Racine, Attorney General for the District of Columbia, *Illegal Worker Misclassification: Payroll Fraud in the District's Construction Industry*, economic analysis by Dale Belman and Aaron Sojourner, 1, 2 and 15 (May 22, 2019), available at <https://oag.dc.gov/sites/default/files/2019-09/OAG-Illegal-Worker-Misclassification-Report.pdf>.

<sup>7</sup> Examples of specialty subcontractors in the carpentry trade include pile driving, concrete form construction, interior systems (metal stud, drywall and ceiling installation) and flooring.

<sup>8</sup> Because of the shared control of the workforce, the subcontractors and labor brokers are joint employers. See, e.g., *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1974) (joint employer doctrine under the Fair Labor Standards Act).

<sup>9</sup> Oliver Cooke, Deborah Figart and John Foonjian *The Underground Construction Economy in New Jersey*, Stockton University William J. Huges Center for Public Policy, 9 (June 2016); Yvonne Yen Liu and Daniel Flaming, *Sinking Underground; The Growing Informal Economy in California Construction*, 1 and 2, (2014) ; Dale Belman and Richard Block, *The Social and Economic Costs of Employee Misclassification in the Michigan Construction Industry*, School of Labor and Industrial Relations, Michigan State University, 9 (2008). All reports are available at StopTaxFraud.net/reports.

operator.<sup>10</sup> Labor brokers operate in the guise of shell companies registered with offices of secretaries of state. The shell company identity is rented from the operator or another person or entity that is facilitating the scheme. Shell company operators will be the persons that sign incorporation documents, applications and renewals of workers' compensation insurance and any tax forms, making them the low hanging fruit for law enforcement. The operators, or their co-conspirators, may also "rent" the shell identity and insurance forms to numerous labor brokers. Labor brokers in this fraud model are beneficial owners of the shell companies and the shell operators, and any co-conspirators, can also be beneficial owners or applicants under the CTA.

To facilitate the off-the-books payments to employees, labor brokers will negotiate the check payments from subcontractors for cash at stand-alone money service businesses, grocery stores, liquor stores, roving vans, bars or gas stations. When a labor broker is using a shell company identity, and the bank check from the subcontractor<sup>11</sup> is \$10,000 or more, the currency transaction report will be falsified by noting that the shell company operator negotiated the check and not the labor broker. The cash money received to pay employees can be "clean" or laundered proceeds from criminal syndicates or drug cartels.<sup>12</sup>

The schemes described above, and their variations, are standard-operating procedure, or close to that, in many states, including Florida, Georgia, Tennessee, Colorado, Utah, Virginia, Maryland, the District of Columbia, Louisiana, Oklahoma, Texas and other states. The schemes exist, though are less dominant currently, throughout the rest of the country.

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<sup>10</sup> David Borum & Geoffrey Branch, *How Construction Cons Steal Workers' Comp Premiums: It's a Shell Game*, Journal of Insurance Fraud in America, April 25, 2017, reprinted by Property Casualty 360, available at,

<https://www.propertycasualty360.com/2017/04/25/how-construction-cons-steal-workers-comp-premiums>,

<sup>11</sup> It is difficult to conjure a legitimate reason for a business to consistently negotiate business checks at a money service business that will charge a percentage fee when a bank can be used. Even when money service businesses are used, banks are involved. On the surface, transactions between contractors, labor brokers and workers can look normal. But there are tell-tale signs that can trigger suspicious activity alerts. For instance, large-dollar checks from a subcontractor consistently negotiated at a money service business raises a red flag of suspicious activity. Where labor brokers pay workers with a bank check, there are numerous indicia which combined demonstrate suspicious activity. For example, any combination of consistent round numbers in payments to multiple individuals, the absence of or meager payments to taxing authorities and workers' compensation carriers, the same individuals being paid by the same customer now operating under a different business identity, checks to individuals from a personal rather than a business account, the absence or imbalance of business-as-usual expenses or the customer's checks being consistently negotiated by multiple individuals at the same money service business.

<sup>12</sup> Borum, *supra* note 10.

The labor broker fraud model has spread far and wide for many reasons other than those already mentioned. Chief among them is that it is lucrative, and it works. Market forces are eviscerating self-policing, because malign contractors win the bids, thus stealing work away from law-abiding construction businesses and their employees. Responsible contractors are forced into niche markets or are pressured to join in these schemes or go out of business. Additionally, either because of the complexity of the layers of entities used in these cases, lack of resources, or other pressing priorities, law enforcement rarely, either through joint-employer or conspiracy doctrines, holds the specialty or other upper-tier contractors accountable. Thus, the fraud model is vindicated every time a labor broker or shell company operator is the only entity held liable.

A recurring belief is that this unlawful behavior is isolated to single-family home construction. It is true that lawlessness dominates the residential construction industry in every state, but the unfortunate truth is illegal practices have spread across all segments of the construction industry. UBC affiliates and law-enforcement cases have uncovered labor-broker schemes at military bases, hospitals, universities, luxury condominiums towers, office towers, hotels, legislative office buildings, airports and horizontal housing developments being constructed by some of the leading general contractors, construction managers and specialty subcontractors in the construction industry.

Data proves the severity of the problem. A study of construction-employer fraud nationally disclosed that up to 20.5 percent of construction workers who should be treated as employees are not.<sup>13</sup> Using conservative estimates, the researchers found that construction workers lose close to \$1 billion of overtime and other premium pay annually.<sup>14</sup> Social Security and Medicare losses are \$5.08 billion annually.<sup>15</sup> Approximately \$717 million of state unemployment contributions are not made, and workers' compensation carriers lose \$2.03 billion in premiums. Federal income tax losses amount to \$1.8 billion annually and state income tax losses are about \$730 million.<sup>16</sup> Moreover, adding insult to injury, the scofflaws foist \$3.48 billion of federal employment taxes they should pay onto the backs of workers and their families.<sup>17</sup>

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<sup>13</sup> Russell Ormiston, Dale Belman and Mark Erlich, *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*, 3 (2020), available at <https://stoptaxfraud.net/wp-content/uploads/2020/03/National-Carpenters-Study-Methodology-for-Wage-and-Tax-Fraud-Report-FINAL.pdf>.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> Ormiston, *supra* note 13 at 5, using mid-range numbers.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* Additional data on individual states can be found at StopTaxFraud.net/reports

The damage caused by malign contractors reverberates throughout society. Construction families suffer and we all pay for it. The University of California Berkeley Labor Center issued a report in January 2022 on the number of construction worker families in the U.S. enrolled in safety net programs—adult Medicaid, children’s Medicaid, the Earned Income Tax Credit, Temporary Assistance for Needy Families, and the Supplemental Nutrition Assistance Program.<sup>18</sup> Shockingly, 3 million families, or 39 percent of construction worker families, are enrolled in at least one safety net program, costing state and federal taxpayers \$28 billion a year.<sup>19</sup> That compares to 31 percent of all working families.<sup>20</sup> Additionally, 31 percent of construction workers do not have health insurance compared to 10 percent of all workers.<sup>21</sup> The authors of the report attributed the high degree of reliance on public assistance to a number of factors. Chief among those were low pay, wage theft, misclassification as independent contractors, off-the-books payments, and “payroll fraud”.<sup>22</sup>

The array of federal and state laws violated is staggering. They include: employment-tax fraud, failure to deduct income taxes, failure to report wages, failure to pay state unemployment contributions, insurance fraud,<sup>23</sup> money laundering, falsifying or failing to file currency transaction reports, failure to pay minimum wages, failure to pay overtime premium pay, mail fraud, wire fraud, racketeering and labor trafficking of immigrant workers.

This crisis cannot be explained away as small businesses being confused by complicated laws and definitions of employment—the labor broker fraud scheme is an illicit business model<sup>24</sup>

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<sup>18</sup> Ken Jacobs, Kuichih Huang, Jenifer MacGillvary and Enrique Lopezlira, *The Public Cost of Low-Wage Jobs in the US Construction Industry*, UC Berkeley Labor Center (January 2022) (“Public Cost”); available at, <https://laborcenter.berkeley.edu/the-public-cost-of-low-wage-jobs-in-the-us-construction-industry/>.

<sup>19</sup> *Id.* at 1.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 1, 2-3 and 6.

<sup>23</sup> See, e.g., Press Release, Dept. of Justice, U.S. Attorney’s Office Middle District of Florida, *Two Men Plead Guilty to Fraudulent Scheme to Evade Payroll Taxes and Workers’ Compensation Requirements in the Construction Industry*, (March 30, 2021) (hereinafter “Two Men Plead Guilty”), available at, <https://www.justice.gov/usao-mdfl/pr/two-men-plead-guilty-fraudulent-scheme-evade-payroll-taxes-and-workers-compensation> (This case is an example of a workers’ compensation premium fraud scheme where shell companies were used also involving federal offences. The defendants pleaded guilty to wire fraud and tax fraud. The estimated payroll taxes owed on the \$22,793,748 of checks cashed was \$5,766,286. The workers’ compensation insurers should have charged a premium of \$3,600,000, instead of what they charged--\$15,206 to \$31,268 per policy year.).

<sup>24</sup> *Hearing on Misclassification of Employees: Examining the Costs to Workers, Businesses, and the Economy: Before the Workforce Protections Subcommittee, House Education and Labor Committee, 116th Congress* (2019) (Statement of Matt Townsend, President of the Signatory Wall and Ceiling

that threatens and perverts the free flow of interstate commerce. Law-abiding contractors or specialty subcontractors that do not want to be associated with illegal practices lose work or are frozen out of market segments in many states.

We agree that the CTA and NPRM will provide data on beneficial owners and applicants that will make law enforcement work more efficient and effective in construction industry cases. The UBC thus supports the NPRM. Our following recommendations, if adopted, will further improve the effectiveness of the proposal.

### **III. Recommendations and Responses to Requested Comments.**

Below are the UBC's responses to specific comment requests in the NPRM. They will be numbered as they appear in the NPRM.

**5. Are the “interpretations of ‘national security,’ ‘intelligence,’ and ‘law enforcement clear enough to be useful?”<sup>25</sup>**

**6. Should the rule include “and specific activities or elements to the proposed interpretations of ‘national security,’ ‘intelligence’ and ‘law enforcement’ that do not seem to be covered already.”<sup>26</sup>**

The UBC responds to items 5 and 6 together.

The cornucopia of laws violated in the construction industry’s growing fraud model requires an ample application of the proposed rule for both federal and state, local, or tribal (“SLT”) enforcement. The UBC supports the broad definition of “law enforcement activity” in §1010.955(b)(1)(iii), but (b)(1)(iii) only appears in the federal disclosure section. To leave no doubt that the definition also applies to SLT enforcement activity, it needs to be repeated in subsection (b)(2) which covers SLT agencies. Moreover, to ensure that the laws enforced by the

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Contractors Alliance), 1, available at, <https://edlabor.house.gov/imo/media/doc/TownsendTestimony092619.pdf>. See also, Doug Burton, op-ed, *To help NC businesses, end the misclassification fraud*, The News & Observer, June 3, 2015 (“This fraud is a growing problem that harms workers, puts a strain on government resources and provides an unfair advantage when these unscrupulous employers compete with law-abiding businesses.”), available at <https://www.newsobserver.com/opinion/op-ed/article23037534.html>.

<sup>25</sup> NPRM, *supra* note 1 at 77425.

<sup>26</sup> *Id.*

rule are not restricted by a constrained interpretation, a further amendment is proposed in a new subsection (b)(2)(iii) as follows:

Law enforcement activity includes investigative and enforcement activities related to civil or criminal violations of law, including but not limited to payment of wages, income taxes, employment taxes, reporting of wages and other compensation, grand theft, forgery, human trafficking, insurance fraud and payment of premiums and applications for workers' compensation coverage. Such activity does not include the routine supervision or examination of a financial institution.

Proposed subsection (a)(1)(iii) should be similarly amended:

Law enforcement activity includes investigative and enforcement activities related to civil or criminal violations of law, *including but not limited to the payment of wages, income taxes, employment taxes, and reporting of wages and other compensation, human trafficking, mail fraud, wire fraud and obstruction.* Such activity does not include the routine supervision or examination of a financial institution by a Federal regulatory agency with authority described in (b)(4)(ii)(A) of this section. (Additions in italics.)

Additionally, the UBC recommends the following language be added at the end of the definition of "SLT" enforcement agency in subsection (b)(2)(ii), to, again, clarify the breadth of SLT agencies, including regulatory agencies, that will have access to BOI. Also, amendment is needed to clarify that "Local" enforcement applies to the District of Columbia:

including, but not limited to, offices of state attorneys general, district attorneys, departments of revenue, departments of employment security, wage and hour enforcement divisions, departments of insurance and workers' compensation coverage enforcement divisions. "Local" enforcement agency includes non-federal agencies within the government of the District of Columbia.

**7. Comments are requested on "how State, local and Tribal law enforcement agencies are authorized by courts to seek information in criminal and civil investigations."<sup>27</sup>**

The civil process in many states for tax, wage and workers' compensation coverage enforcement is to access information from respondents through subpoenas issued by

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<sup>27</sup> *Id.* The use of administrative courts also applies to federal agencies as well.

investigators through the statutory authority of commissioners or secretaries. Much of the litigation occurs in administrative hearings with review and enforcement of administrative decisions through the courts.

The CTA and §10955(b)(2) require a “court of competent jurisdiction” to authorize a SLT agency to seek BOI. Additionally, in §1010.955(c)(2)(vi) SLT agencies are authorized to disclose the BOI to a “court of competent jurisdiction or parties to a civil or criminal proceeding.”

A “court of competent jurisdiction” and litigants in a “civil...proceeding” can be broadly interpreted as including an “administrative court,” and parties in administrative proceedings, but that may not be clear to readers of the rule. Accordingly, the UBC recommends that a new (b)(6) subsection be added with the following language:

A “court of competent jurisdiction” and “civil proceeding” includes administrative courts and administrative proceedings.

**11. The NPRM seeks comment on requiring financial institutions to get the consent of the reporting company to request BOI from FinCEN.**

Proposed §1010.955(b)(4)(i) and CTA §5336(c)(2)(B)(ii)(II)(bb)(iii) require financial institutions to get the consent of reporting companies to request BOI in order to comply with the institution’s customer due diligence obligations. This is a troublesome requirement. It is difficult to imagine a reporting company that is a shell facilitating financial crimes giving its consent. The proposed rule, though, does not detail when consent needs to be given, nor does it have an expiration date. Accordingly, financial institutions can include such consent requests within its routine customer on-boarding paperwork. The NPRM should include the following language after the last sentence in §1010.955(b)(4)(i) to clarify how consent can be acquired:

Non-expiring consent can be obtained during the financial institutions’ account onboarding procedure of a customer.

**12. The NPRM asks in its definition of “customer due diligence requirements,” under its 2016 customer due diligence rule, if it should require financial institutions to collect additional information on beneficial owners.<sup>28</sup>**

The UBC recommends that additional information on beneficial owners should be required. As seen in the construction industry, beneficial owners will regularly change their shell

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<sup>28</sup> *Id.* at 77425.

company identities. As part of customer due diligence, financial institutions should require the disclosure of the names of business entities associated with a beneficial owner over a period of years. We recommend adopting the six-year statute of limitations period found in 31 U.S.C. §5321(b)(1) for civil violations of the Bank Secrecy Act. Collection of such data can also alert financial institutions about monitoring such customers for suspicious activities.

**18. The NPRM seeks comments on its proposed re-disclosure rules found in §1010.955(c).**

Proposed section 1010.955(c)(2)(vi) provides that SLT enforcement agencies can share BOI to “parties to a civil or criminal proceeding.” The UBC believes that this language is too restrictive for SLT agencies making case referrals to state attorneys general or district attorneys. BOI can be vital to attorneys general and district attorneys’ decisions to litigate or require additional investigation. In such a case under the current proposal, the attorney general or district attorney would need to request its own BOI access. That is inefficient and does not align with the purposes of the CTA. On the other hand, no such stricture exists for federal agencies sharing information with the Department of Justice. Section 1010.955(c)(2)(vii) offers a seamless sharing of BOI by federal agencies making referrals to the Department of Justice. The same process should be available to SLT agencies. Accordingly, 1010.955(c)(2)(vi) needs to be amended by adding the following language (in italics) after “jurisdiction:”

*to any officer, employee contractor or agent of an attorney general, district attorney or parties to a civil or criminal proceeding.*

**19. Can a State regulatory agency qualify as a “State, local, or Tribal Law enforcement agency?” If so, what types of enforcement activities or investigations “would require access to BOI?”<sup>29</sup>**

SLT regulatory agencies can qualify under proposed rule §1010.955(b)(2) as a “State, local, or Tribal law enforcement agency,” but that should be clarified as we have recommended in our response to item 5 above. As outlined by the UBC in previous pages, labor brokers shroud themselves in layers of shell companies that they regularly change in schemes to evade paying required taxes, wages, and premiums for workers’ compensation insurance.<sup>30</sup> In those cases, the

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<sup>29</sup> *Id.* at 77426.

<sup>30</sup>See, e.g., Press Release, Kwame Raoul, Ill. Attorney General, *Attorney General Raoul Sues Construction Company Over Complex Scheme to Avoid Paying Fair Wages and Taxes* (Sept. 2, 2022)  
[https://illinoisattorneygeneral.gov/pressroom/2022\\_09/20220902.html](https://illinoisattorneygeneral.gov/pressroom/2022_09/20220902.html); Press Release Scott Coffina,

labor brokers are beneficial owners. Their disclosure to state insurance fraud or workers' compensation fraud investigators would save valuable time. Additionally, such disclosure would assist in directing investigative resources beyond the shell company to include the labor broker, thus foiling the value of shell companies to the conspiracy. Moreover, if the shell company has not reported BOI, the SLT regulatory agency can inform FinCEN for investigation and potential penalties for violating the CTA.

The CTA was enacted to "protect interstate and foreign commerce," and "better enable critical national security, intelligence, and law enforcement efforts to counter...illicit activity."<sup>31</sup> The additional "eyes and ears" and enforcement work of SLT regulatory agencies clearly align with Congress' intent when it passed the CTA. Moreover, the usefulness of SLT agencies is demonstrated by the joint state and federal investigations in construction industry cases.<sup>32</sup>

**29. The NPRM seeks recommendations for engagement with stakeholders and SLT authorities on BOI reporting and access requirements.<sup>33</sup>**

Stakeholders can be an invaluable source for information regarding the integrity of the BOI provided by reporting companies or the companies that should have reported. The level of disregard of the law by malign contractors and their labor brokers should not be underestimated. UBC affiliates collect information on irresponsible contractors. Accordingly, the UBC renews

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Prosecutor Burlington County, N.J., *Three Arrested, \$450k Seized, as Money Laundering Operation Taken Down: Investigation Reveals Illegal Construction Finance Scheme Involving Millions of Dollars*, reprinted CNB News (August 28, 2017)

<https://www.glocestercitynews.net/clearysnotebook/2017/08/three-arrested-450k-seized-as-money-laundering-operation-taken-down.html>; and Press Release, Jeff Atwater, Chief Financial Officer, Florida Department of Financial Services, *Workers' Comp Scam Leads to Arrest of Central Florida Construction Company Owner* (June 1, 2017) (Operator of shell company arrested for workers' compensation premium fraud.) <https://www.myfloridacfo.com/sitepages/newsroom/pressrelease.aspx?id=4835>.

<sup>31</sup> NPRM *supra* note 1 at 77413.

<sup>32</sup> See, e.g., Press Release, U.S. Attorney's Office, Middle District of Florida, *Mass. Man Sentenced to Prison for Fraudulent Scheme to Evade Payroll Taxes and Workers' Compensation Requirements in Construction Industry* (July 7, 2021) (Homeland Security Investigations and the Internal Revenue Service investigated the case along with the Florida Department of Financial Services.)

<https://www.justice.gov/usao-mdfl/pr/massachusetts-man-sentenced-prison-fraudulent-scheme-evade-payroll-taxes-and-workers>.

<sup>33</sup> *Id.* at 77426.

its recommendation to provide an on-line “tip” platform similar to those used in other jurisdictions for unlawful employment practices.<sup>34</sup>

Additionally, for SLT authorities, FinCEN can present at meetings of the National Association of Attorneys General, the Democratic Association of Attorneys General, Republican Association of Attorneys General, Interstate Labor Standards Association, the National Association of Insurance Commissioners, the International Association of Industrial Accident Boards and Commissions and state, local and tribal meetings or continuing education meetings of prosecuting attorneys.

**IV. Conclusion: The NPRM’s Ability to Impact Unlawful Practices in the Construction Industry Can be Improved by Clarifying the Role of SLT Enforcement Agencies.**

SLT enforcement agencies are more frequently involved with investigations of the significant violations of the law in the construction industry than federal agencies. There can be no doubt that they have an indispensable role to play in combatting illicit practices that subvert the free flow of interstate commerce. The UBC supports the NPRM and proposes that the final rule more fully recognize the important role of SLT agencies in enforcement and how it aligns with the purposes of the CTA in combatting the flagrant abuses of the law in today’s construction industry.

Respectfully submitted,

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Representative of the General President

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/s/ Brian F. Quinn

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Shanley, A Professional Corporation

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<sup>34</sup> See, e.g., New York Dept. of Labor, *Suspected Employer Fraud Including Worker Misclassification Tip-Sheet*, <https://dol.ny.gov/system/files/documents/2021/02/ia318.26.pdf>; and Penn. Dept. of Labor & Industry, *Misclassified Workers*, <https://www.dli.pa.gov/getclassified/Pages/default.aspx>.