

February 9, 2023

Via electronic submission:

Financial Crimes Enforcement Network
Docket No. FINCEN-2021-0005; RIN 1506-AB49/AB59
P.O. Box 39
Vienna, VA 22183
<https://regulations.gov>

Re: Comments on Beneficial Ownership Information Access and Safeguards, and
Use of FinCEN Identifiers for Entities: Docket No. FINCEN-2021-0005; RIN 1506-
AB49/AB59

Dear Sirs and Madams:

The following comments are submitted by International Bancshares Corporation ("IBC"), a publicly-traded, multi-bank financial holding company headquartered in Laredo, Texas. IBC maintains 167 facilities and 259 ATMs, serving 75 communities in Texas and Oklahoma through five separately chartered banks ("IBC Banks") ranging in size from approximately \$480 million to \$9.3 billion, with consolidated assets totaling approximately \$16 billion. IBC is one of the largest independent commercial bank holding companies headquartered in Texas.

This letter responds to the latest notice of proposed rulemaking ("Notice") by the Financial Crimes Enforcement Network ("FinCEN") related to certain new beneficial owner regulations which focus on the security and confidentiality related to such reporting. [Notice at 77404] The Corporate Transparency Act ("CTA") authorizes FinCEN to obtain a reporting company's beneficial ownership information ("BOI") in a centralized database ("Database") and disclose BOI to authorized individuals and entities for certain permissible purposes, including to financial institutions to assist in meeting the institutions' obligations under the customer due diligence rule ("CDD Rule").

The Notice is the second of three proposed rulemakings by FinCEN, which together are intended to address its obligations under the CTA: one rulemaking to implement the beneficial ownership information reporting requirements, a second to implement the statute's protocols for access to and disclosure of beneficial ownership information, and a third to revise the existing CDD Rule. [Notice at 77407]

The Notice specifically covers the authorization, disclosure, and security issues, and attempts to create a framework wherein: (1) only authorized recipients have access to BOI; (2) authorized recipients use that access only for purposes permitted by the CTA; and (3) authorized recipients only re-disclose BOI in ways that balance protection of the security and confidentiality of the BOI with furtherance of the CTA's objective of making BOI available to a range of users for purposes specified in the CTA. [Notice at 77404]

The Notice lists several general and specific requests for information and comment. IBC has provided its general comments and recommendations below.

General Comments

As IBC has noted in its other comment letters on the BOI rule and Registry, it firmly believes FinCEN should not have structured its CTA rulemaking in three separate parts, because it hinders stakeholders' ability to comment thoughtfully on the entire process. For example, the technological and safeguarding requirements now being considered may very well have changed or otherwise affected thoughts and responses to the first rulemaking regarding information reporting requirements. And certainly both of those rulemakings, including the recommendations and comments on them, will affect (and be affected by) the final changes to the CDD Rule. It is difficult to provide fulsome and educated comments and recommendations on a process and framework without knowing the full scope and details of that process and framework. Without the full picture, it is difficult to understand the full extent of the effect the proposed rulemakings will have when implemented all together.

However, just taking the Notice alone at face value, the proposed partial rule does not further Congress's goal of not enacting or otherwise eliminating duplicative regulatory requirements, including the low-hanging fruit of reporting obligations, and reducing unnecessary regulatory costs and burdens. Moreover, without significant changes, the Registry will be of highly limited, if any, value to banks and will only be another heavy regulatory cost to bear as, in the usual manner, the proposed rule simply forces banks to be quasi-regulators over reporting companies. Given these concerns, IBC strongly recommends that FinCEN:

1. Clarify that banks will not be required to access the Registry when discharging their duties under the CDD Rule; and
2. Allow banks to use BOI more broadly to discharge their responsibilities under the Bank Secrecy Act ("BSA") and other customer due diligence rules not only at account opening, but throughout the customer life cycle.

Bank Access to the Registry

IBC believes banks should not be required to access the Registry. It is absolutely necessary that FinCEN confirm now, and draft the rule such, banks should not be required, as a matter of course, to access the Registry.

Even before the CDD Rule was originally implemented, banks collected and stored their customers' BOI, and kept that information updated to ensure that they maintain accurate customer risk profiles and appropriately monitor for and report suspicious activity. Banks poured substantial time and resources into developing policies, procedures, and entire systems to comply with the CDD Rule, and many banks will continue to rely on those systems even after the Registry goes live. It is difficult to see any clear benefit to be gained by mandating that banks access the Registry, especially considering they already have well-developed, regulator-examined systems and processes to comply with the CDD Rule, including identifying and verifying the identities of their customers' beneficial owners. Banks already collect their customers' BOI through their own due diligence processes, so requiring banks to access the Registry—which in the best case scenario will only contain the exact same BOI as that was collected by the bank and submitted in its BOI request to FinCEN—is unnecessarily duplicative and burdensome and these negatives are not outweighed by any benefits. This is to say nothing of the fact that the large number of exemptions from the definition of “reporting company” in the CTA and proposed implementing regulation, including the exemption for “large operating companies,” would result in much of the necessary BOI simply being absent from the Registry because their customers weren't required to report it.

In addition to the unnecessary duplication of efforts, requiring banks to access the Registry will increase banks' regulatory costs because FinCEN has proposed no safeguards or guarantees that the BOI obtained from the Registry will be accurate. Under the proposed rule, reporting companies are required to submit BOI to the Registry, but there are no mechanisms for FinCEN to review, assess, and confirm the accuracy and reliability of such information. Again, this appears to be just another convenient way to deputize banks to shoulder the majority of the burden in implementing the CTA, which burden should ultimately be FinCEN's to carry, by requiring banks to act as regulatory quality control. And if FinCEN does require banks to access and rely on the Registry, that will completely undermine the quality and reliability of customer risk profiles, regardless of whether FinCEN implements a safe harbor for banks, unless banks establish or maintain duplicative policies, procedures, and systems to identify and correct discrepancies between Registry BOI and BOI the banks collect directly from their customers through the banks' due diligence procedures. These unwieldy and competing regulatory regimes would require banks to employ additional personnel and dedicate additional time and resources to implement, reconcile discrepancies, and ensure that BOI obtained from the Registry is accurate. Again, banks would be pseudo-regulators charged with checking FinCEN's work. IBC anticipates it would need to hire or otherwise re-allocate personnel and responsibilities to cover the additional work if the CTA/BOI rule is implemented as-is. IBC simply does not see any benefit in expending these monumental resources to merely duplicate work it is already completing and strongly objects to FinCEN punting its regulatory obligations onto banks.

As noted above and elsewhere herein, IBC urges FinCEN to implement a safe harbor for banks that rely on BOI contained in the Registry, especially if FinCEN will not independently verify and confirm such BOI in order to ensure its reliability.

The Notice states that functional regulators will examine banks' use of BOI obtained from the Registry to discharge their responsibilities under the CDD Rule. [Notice at 77411] There is a non-zero and almost certain chance that BOI obtained from the Registry will contradict BOI obtained directly from customers by bank, and FinCEN should ensure that banks will not be held liable for any BOI discrepancy or reliance on the Registry, especially if FinCEN mandates that banks access the Registry.

Finally, the duplicative efforts and increased costs and compliance burdens that would result if banks are required to access and use the Registry undermines Congress's goal of reducing the regulatory burden for banks. Moreover, the Registry would be of limited, if any, value to banks, particularly if banks are not allowed to rely on the BOI information in the Registry. For all of these reasons, IBC believes that FinCEN should not require banks to access and rely on the Registry and, to honor the spirit of the law and the legislative purpose of the CTA, FinCEN should clarify in the final rule that covered financial institutions, including banks, may, but are not required, to identify and verify the beneficial owners of their legal entity customers, or that they can do so on a risk-basis in compliance with their obligations under the CDD Rule and other related regulatory requirements.

Process

The BOI request process as vaguely described in the Notice appears incredibly cumbersome and, in 2023, jaw droppingly manual in nature. The proposed rule authorizes FinCEN to disclose BOI to "covered financial institutions" that are subject to the beneficial ownership requirements of the CDD Rule. FinCEN has committed to clarifying the specific manner and technical procedures for covered financial institutions, including banks, to access BOI in subsequent guidance. As yet, FinCEN has not provided significant details regarding these issues, but the Notice states that banks will not be permitted to run "open-ended queries in the beneficial ownership IT system or to receive multiple search results," but would instead be required to "submit identifying information specific to a reporting company and receive in return an electronic transcript with that entity's BOI." [Notice at 77410] As the rule is currently drafted, Banks may only request BOI after obtaining a customer's consent, and prior to requesting BOI from FinCEN they would be required to certify that they have obtained such consent and are only requesting the information in order to comply with CDD requirements. FinCEN also expects banks to maintain procedures, including employee training, to ensure compliance with the proposed rule and that appropriate records are maintained.

As an initial matter, FinCEN should allow banks to search the Registry using a broader set of search terms and queries, which in turn will support banks' efforts to mitigate financial crimes, including money laundering, terrorism funding, and other illicit finance risks. It is no secret that bad actors often use a complex array of shell companies to hide the source of funds. That is a primary reason the CTA was enacted at all. Allowing banks to search the Registry by beneficial owner and other data points to better understand the nature and scope of the entities associated with a beneficial owner will drastically increase the Registry's value and improve a bank's customer risk profiles.

This will also support banks' efforts to monitor for and report suspicious activity and other illicit financial transactions.

Ignoring the unnecessary and manufactured limitations on the proposed Registry, FinCEN has proposed that, in response to a BOI request from a bank, the bank would

“receive...an electronic transcript with the entity's BOI. To the extent the [bank] makes a trivial data-entry error in its request for BOI, the [bank] could still obtain the requested BOI, provided the errors do not compromise BOI security and confidentiality and result in the [bank] retrieving information on the wrong reporting company.” [Notice at 77411]

IBC has numerous questions regarding, and issues with, this approach. Will banks be required to designate one or a specific number of individuals as authorized to submit requests and access the registry, similar to Section 314(b) FinCEN requests? What will the turnaround time be? How long will it take from a bank's BOI request, assuming a complete and accurate request, for it to receive the proposed electronic transcript? What will be included in the transcript, and what if that is not sufficient for CDD Rule purposes? Would the information included vary between reporting companies? When, if at all, will the bank be alerted that either no such BOI or reporting entity exists on the Registry? When, if at all, will the bank be notified that its request had multiple hits or otherwise appeared to suffer from a more than “trivial” data-entry error? What, if anything, will banks be required to do if the BOI Registry information varies in any way from the information provided to the bank by its customer? And what exactly is the standard that FinCEN would consider not a compromise of BOI security and confidentiality and not resulting in disclosing the BOI of the wrong reporting company? If FinCEN is going to set that standard too high, the Registry will be useless and banks will waste immeasurable time trying to use it. If FinCEN sets the standard too low, it must either forgo punishment for a bank having such incorrect BOI or it must provide a safe harbor. Banks are acutely aware of the issues attendant when searching databases using names and additional qualifiers (e.g. suffixes and corporate designations). IBC itself faces incredible hurdles in serving its large population of minority customers because of identification, verification, and other issues related to database searching issues caused by foreign and ethnic names. For example, names with tildes and other accent marks, multiple middle and surnames, and non-standard spelling can cause major headaches and require increased time and resources in the areas of customer due diligence and transaction monitoring and reporting. IBC encounters these issues frequently with its large population of Latin and Hispanic customers. IBC believes these same issues would be present for reporting entities and the Registry, and asks that FinCEN consider these issues and how best to address them prior to the proposed rule's implementation.

Regarding FinCEN's requirement that banks obtain consent from their legal entity customers, how does FinCEN expect banks to document and prove that they have obtained such consent to access the BOI on the Registry? The proposed consent requirement includes a bank's obligation to track revocations of consent by customers. Through what methods can a customer revoke consent? When must a bank honor a revocation of consent? What steps must a bank take when a customer revokes consent?

If FinCEN requires a bank to access the Registry, what, if anything, must a bank do when a customer does not consent to allow the bank access to its BOI on the Registry?

Finally, under the proposed rule, FinCEN is making banks accountable for obtaining and tracking their customers' consent (and revocation of such consent) to allow banks to access the BOI contained in the Registry. This is simply another huge cost foisted upon banks and will require substantial investment in and upgrades to existing information and technology systems. As always, large banks will be able to absorb these costs and rely on proprietary solutions, while small and mid-sized banks will be at the mercy of their service providers. FinCEN even considered an alternative framework where it would be responsible for obtaining consent from the reporting company in order to disclose the BOI to a financial institution. [Notice at 77428] FinCEN appears to have rejected this approach by grossly underestimating the time and resources necessary for obtaining such consent. FinCEN estimates that the hours necessary to obtain such consent would be limited to simply creating consent forms "and processes" and would only take ten (10) hours in the first year of the Rule's implementation for each financial institution. [Notice at 77428] This is patently absurd and completely disregards the time and attention that will be necessary on an ongoing basis. FinCEN rejects this alternative, even acknowledging the cost savings (which would be much larger in practice, if FinCEN had accurately calculated the time and resources that will actually be required), because, in its opinion, "financial institutions are better positioned to obtain consent – and track revocation – given their direct customer relationships and ability to leverage existing onboarding and account maintenance processes." [Notice at 77428] So regardless of the massive cost savings, FinCEN would prefer to simply shirk its responsibilities and let financial institutions shoulder the entire burden. FinCEN's reasoning does not even make sense. FinCEN itself will have the same, if not more, contact with the reporting company because the reporting company has to report its BOI to FinCEN in the first place. Why would FinCEN not obtain consent to share BOI at that time, and then simply require financial institutions to certify that they have a right to receive the BOI because the reporting company for which the BOI is requested is the financial institution's customer or prospective customer? Banks are highly regulated, and no strangers to regulatory oversight and certification of compliance with applicable law. FinCEN is the entity creating the BOI database, why can it not simply include additional data points regarding reporting company consent? If FinCEN structured the BOI database in this way, reporting companies could more easily control access to their BOI because they could see, from FinCEN's comprehensive records, who has accessed their BOI, who has ongoing access, and request either a full or partial revocation of consent for such financial institutions. This would greatly alleviate the burden on both reporting companies and financial institutions in the event a reporting company wants to revoke its BOI disclosure consent, and should likely require minimal additional upfront cost to FinCEN as it would only require few additions to the BOI database functionality. To FinCEN's point, it is actually the party best placed to handle and manage these issues because it is the central repository, not the myriad financial institutions that serve the huge population of reporting companies. Upon request for BOI from a financial institution, FinCEN should be responsible for obtaining the reporting company's consent to the disclosure.

At the very least, FinCEN should clarify that financial institutions may obtain adequate consent from reporting companies through standard account opening and/or onboarding processes and documentation, including by conspicuously posting notice that a reporting company provides such consent by becoming a customer (or requesting a financial product or services from the financial institution). Banks are already obligated to make numerous disclosures and obtain several specific consents related to BSA and anti-money laundering requirements as part of customer due diligence. For example, banks typically make IRS-required disclosures and obtain required IRS certifications on customer signature cards. Banks also frequently include consent to obtain credit reports in their account agreements. The proposed rule should be revised to make clear that banks may obtain the required consent in conjunction with other required consents and certifications, and through normal account opening and customer on-boarding processes, which includes posting notice, in a manner reasonably tailored to ensure viewing, that such consent is provided when a reporting company requests a product or service from a bank.

Registry Reliance and Regulatory Compliance

Under the CTA, FinCEN is authorized to disclose BOI to banks to facilitate banks' compliance with "customer due diligence requirements under applicable law." [Notice at 77415] Because this authorizing language is undefined and not tied to any specific regulatory due diligence obligation, FinCEN is responsible for determining the scope of "customer due diligence requirements" and the extent to which banks may obtain and use BOI from the Registry. The Notice narrowly defines "customer due diligence requirements under applicable law" to mean the beneficial ownership requirements of the CDD Rule at 31 CFR 1010.230, which requires covered financial institutions to identify and verify beneficial owners of legal entity customers. [Notice at 77415] Under the proposed rule, banks would only be allowed to submit identifying information specific to their reporting company customers to the Registry, and receive an "electronic transcript" with a specific entity's BOI from the Registry. In support of this narrow definition and proposed process, FinCEN concludes that such narrowing will reduce the risk of inappropriate use or unauthorized disclosure of BOI. [Notice at 77415] However, this overly restrictive approach will almost certainly carry little water in safeguarding BOI, while, at the same time, making banks' access to BOI in the Registry functionally useless. Narrowing highly-regulated banks' access to BOI would not enhance the security and confidentiality of such information. Not only are banks already compliant with the CDD Rule, they are already compliant with a host of other consumer and business information privacy and confidentiality regulations and contractual obligations. Almost daily, another huge breach or unauthorized disclosure of customer data is publicly announced, and it is not uncommon for these events to effect hundreds of thousands of individuals and entities. While not unheard of, banks have nowhere near the same amount of data and security breaches of other businesses. This is due, in no small part, to the extensive regulation and oversight to which banks are subject. Due to those extensive regulatory obligations, banks have long collected beneficial ownership and other sensitive data from their customers, and are already required to protect against its unauthorized disclosure.

It boggles the mind to see regulators consistently creating new and increasing existing privacy and security obligations on banks, while other industries and entities remain free to carry on in unsafe and unsound manners, to say nothing of actual bad actors who specifically intend to inappropriately obtain and misuse PII. If anything, federal and state bank regulators should be satisfied with the privacy and security regimes they have forced banks to shoulder the costs of, as they have been more successful than those of any other industry.

Practically all the information banks obtain and maintain is considered highly confidential. It is a fundamental tenet of banking, and a banker's sacred obligation to his or her client. This is true regardless of regulatory interference and obligation. Because this intimate relationship between a bank and its customers provides the deepest insight into the inner workings of a customer's business, banks have long been forced into service by law enforcement as the legal intermediary to the bank's customers by collecting, maintaining and reporting vast amounts of personally identifiable information ("PII") associated with their customers. Because of this unique relationship, banks are, and have long been, subject to stringent requirements that require them to protect against the unauthorized disclosure of PII, including BOI. Limiting banks' access to the Registry to protect information that many banks already obtain and maintain (and in many instances are required to obtain and maintain) and are required to safeguard ignores the regulatory reality currently faced by banks and vastly decreases (to the point of uselessness) any value of the Registry.

Under the proposed rule, banks would only be authorized to use BOI obtained from the Registry for the narrow purpose of facilitating compliance with the CDD Rule. However, banks would remain free to obtain BOI directly from their customers and use it for any number of purposes. IBC notes this is a fundamental issue with the proposed rule: it places duplicative obligations and burdens on banks without providing any related or offsetting regulatory compliance benefits. In this instant case, banks would have to allocate extensive resources to ensure that BOI obtained from the Registry is appropriately identified and maintained separate and apart from BOI collected directly from customers in order to comply with the limited use of BOI obtained from the Registry as contemplated by the proposed rule.

As much as FinCEN would prefer to spin the benefits of the proposed rule, obtaining customer BOI from the Registry ultimately will not facilitate a bank's compliance with the CDD Rule absent a fundamental revision of said rule, which may or may not be forthcoming. It is impossible to know whether the Registry, and the BOI obtained from it, will facilitate a bank's compliance with the CDD Rule precisely because, as noted elsewhere herein and in IBC's previous comment letters, FinCEN has refused to propose its CTA implementing regulations in one part instead of three. The CDD Rule, as currently implemented, only requires that banks identify and verify the identity of the beneficial owners of their legal entity customers. It does not require that they verify that those individuals are in fact beneficial owners of the legal entity customer. Requiring banks to access the BOI in the Registry will do little, if anything, to help banks verify the identities of their customers' beneficial owners since, in most cases, that BOI will be the same information that customers provide to the bank.

Further, IBC would strongly oppose any attempt by FinCEN to amend the CDD Rule to require banks to verify the status of the BOI provided by banks' customers. If FinCEN was going to completely change the current state of customer due diligence regulatory obligations, IBC would, at the very least, expect it to overhaul the reporting company requirements for the Registry. As currently proposed, the form that reporting companies will complete to enter BOI into the Registry, as proposed by FinCEN, allows the reporting company to select "unknown" as an option for many data points. This seems completely at odds with the entire purpose of the CTA and CDD Rule and would act as a complete roadblock to banks' compliance with the CDD Rule and other customer due diligence obligations and principles.

Specific Requests for Comment

Understanding the Rule

1. Can the organization of the rule text be improved? If so, how?
2. Can the language of the rule text be improved? If so, how?
3. Does the proposed rule provide sufficient guidance to stakeholders and the public regarding the scope and requirements for access to BOI?

Disclosure of Information

4. The CTA prohibits officers and employees of (1) the United States, (2) State, local, and Tribal agencies, and (3) FIs and regulatory agencies from disclosing BOI reported under the statute. FinCEN proposes to extend the prohibition to agents, contractors, and, in the case of FIs, directors as well. FinCEN invites comments on the proposed scope.
5. Are FinCEN's proposed interpretations of "national security," "intelligence," and "law enforcement" clear enough to be useful without being overly prescriptive? If not, what should be different? Commenters are invited to suggest alternative interpretations or sources for reference.
6. Should FinCEN add any specific activities or elements to the proposed interpretations of "national security," "intelligence," and "law enforcement" that do not seem to be covered already? If so, what?
7. FinCEN requests comments discussing how State, local, and Tribal law enforcement agencies are authorized by courts to seek information in criminal and civil investigations.

Among the particular issues that FinCEN is interested in are: how State, local, and Tribal authorities gather evidence in criminal and civil cases; what role a court plays in each of these mechanisms, and whether in the commenter's opinion it rises to the level of court "authorization"; what role court officers (holders of specific offices, not attorneys as general-purpose officers of the court) play in these mechanisms; how grand jury subpoenas are issued and how the court officers issuing them are "authorized" by a court; whether courts of competent jurisdiction, or officers thereof, regularly authorize subpoenas or other investigative steps via court order; and whether there are any evidence-gathering mechanisms through which State, local, or Tribal law enforcement agencies should be able to request BOI from FinCEN, but that do not require any kind of court?

8. Is requiring a foreign central authority or foreign competent authority to be identified as such in an applicable international treaty, agreement, or convention overly restrictive? If so, what is a more appropriate means of identification?

9. Are there alternative approaches to managing the foreign access provision of the CTA that FinCEN should consider?

10. Should FinCEN define the term "trusted foreign country" in the rule, and if so, what considerations should be included in such a definition?

11. FinCEN proposes that FIs be required to obtain the reporting company's consent in order to request the reporting company's BOI from FinCEN. FinCEN invites commenters to indicate what barriers or challenges FIs may face in fulfilling such a requirement, as well as any other considerations.

12. FinCEN proposes to define "customer due diligence requirements under applicable law" to mean the bureau's 2016 CDD Rule, as it may be amended or superseded pursuant to the AML Act. The 2016 CDD Rule requires FIs to identify and verify beneficial owners of legal entity customers. Should FinCEN expressly define "customer due diligence requirements under applicable law" as a larger category of requirements that includes more than identifying and verifying beneficial owners of legal entity customers? If so, what other requirements should the phrase encompass? How should the broader definition be worded? It appears to FinCEN that the consequences of a broader definition of this phrase would include making BOI available to more FIs for a wider range of specific compliance purposes, possibly making BOI available to more regulatory agencies for a wider range of specific examination and oversight purposes, and putting greater pressure on the demand for the security and confidentiality of BOI. How does the new balance of those consequences created by a broader definition fulfill the purpose of the CTA?

13. If FinCEN wants to limit the phrase "customer due diligence requirements under applicable law" to apply only to requirements like those imposed under its 2016 CDD Rule related to FIs identifying and verifying beneficial owners of legal entity customers, are there any other comparable requirements under Federal, State, local, or Tribal law?

If so, please specifically identify these requirements and the regulatory bodies that supervise for compliance with or enforce them.

14. Are there any State, local, or Tribal government agencies that supervise FIs for compliance with FinCEN's 2016 CDD Rule? If so, please identify them.

15. FinCEN does not propose to disclose BOI to SROs as "other appropriate regulatory agencies," but does propose to authorize FIs that receive BOI from FinCEN to disclose it to SROs that meet specified qualifying criteria. Is this sufficient to allow SROs to perform duties delegated to them by Federal functional regulators and other appropriate regulatory agencies? Are there reasons why SROs could be included as "other appropriate regulatory agencies" and obtain BOI directly from FinCEN?

16. Are there additional circumstances under which FinCEN is authorized to disclose BOI that are not reflected in this proposed rule?

Use of Information

17. FinCEN proposes to permit U.S. agencies to disclose BOI received under 31 CFR 1010.955(b)(1) or (2) to courts of competent jurisdiction or parties to civil or criminal proceedings. Is this authorization appropriately scoped to allow for the use of BOI in civil or criminal proceedings?

18. In proposed 31 CFR 1010.955(c)(2)(v), FinCEN proposes to establish a mechanism to authorize, either on a case-by-case basis or categorically through written protocols, guidance, or regulations, the re-disclosure of BOI in cases not otherwise covered under 31 CFR 1010.955(c)(2) and in which the inability to share the information would frustrate the purposes of the CTA because of the categorical prohibitions against disclosures at 31 U.S.C. 5336(c)(2)(A). Are there other categories of redisclosures that FinCEN should consider authorizing? Are there particular handling or security protocols that FinCEN should consider imposing with respect to such re-disclosures of BOI?

19. Could a State regulatory agency qualify as a "State, local, or Tribal law enforcement agency" under the definition in proposed 31 CFR 1010.955(b)(2)(ii)? If so, please describe the investigation or enforcement activities involving potential civil or criminal violations of law that such agencies may undertake that would require access to BOI.

Security and Confidentiality Requirements

20. Should FinCEN impose any additional security or confidentiality requirements on authorized recipients of any type? If so, what requirements and why?

21. The minimization component of the security and confidentiality requirements requires limiting the "scope of information sought" to the greatest extent possible.

FinCEN understands this phrase, drawn from the language of the CTA, to mean that requesters should tailor their requests for information as narrowly as possible, consistent with their needs for BOI. Such narrow tailoring should minimize the likelihood that a request will return BOI that is irrelevant to the purpose of the request or unhelpful to the requester. Does the phrase used in the regulation convey this meaning sufficiently clearly, or should it be expanded, and if so how?

22. Because security protocol details may vary based on each agency's particular circumstances and capabilities, FinCEN believes individual MOUs are preferable to a one-size-fits all approach of specifying particular requirements by regulation. FinCEN invites comment on this MOU-based approach, and on whether additional requirements should be incorporated into the regulations or into FinCEN's MOUs.

23. FinCEN proposes to require FIs to limit BOI disclosure to FI directors, officers, employees, contractors, and agents within the United States. Would this restriction impose undue hardship on FIs? What are the practical implications and potential costs of this limitation?

24. Are the procedures FIs use to protect non-public customer personal information in compliance with section 501 of Gramm-Leach-Bliley sufficient for the purpose of securing BOI disclosed by FinCEN under the CTA? If not, is there another set of security standards FinCEN should require FIs to apply to BOI?

25. Are the standards established by section 501 of Gramm-Leach-Bliley, its implementing regulations, and interagency guidance sufficiently clear such that FIs not directly subject to that statute will know how to comply with FinCEN's requirements with respect to establishing and implementing security and confidentiality standards?

26. Do any states impose, and supervise for compliance on, security and confidentiality requirements comparable to those that FFRs are required to impose on FIs under section 501 of Gramm-Leach-Bliley? Please provide examples of such requirements.

Outreach

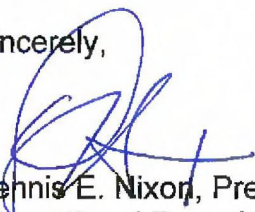
29. What specific issues should FinCEN address via public guidance or FAQs? Are there specific recommendations on engagement with stakeholders to ensure that the authorized recipients, and in particular, State, local, and Tribal authorities and small and mid-sized FIs, are aware of requirements for access to the beneficial ownership IT system?

FinCEN Identifiers

30. Does FinCEN's proposal with respect to an entity's use of a FinCEN identifier adequately address the potential under- or over-reporting issues discussed in the preamble?

Thank you for the opportunity to share IBCs views on these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "DENNIS E. NIXON", with a stylized flourish at the end.

Dennis E. Nixon, President and CEO
International Bancshares Corporation