

February 13, 2023

By Electronic Delivery to:
www.regulations.gov

Policy Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

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

To Whom This May Concern,

This letter is submitted on behalf of Wolters Kluwer in response to the *Notice of Proposed Rulemaking: Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities*, Docket No. FINCEN-2021-0005.

Wolters Kluwer is a leading provider of compliance solutions, technology, and services to financial institutions across the United States. The vast majority of U.S. banks and credit unions uses Wolters Kluwer solutions, such as deposit, lending and IRA documentation, disclosures, software, training, support and consulting services. In addition, many core processors and software developers use our compliance-related documents and other components in their products. Some of the many Wolters Kluwer services include helping financial institutions with disclosure and other requirements under the Corporate Transparency Act (CTA) and FinCEN's implementing regulations.

Wolters Kluwer appreciates the opportunity to request clarification regarding the consent that financial institutions must obtain from reporting companies in order to request information for customer due diligence requirements.

This consent is briefly described in the proposed rule at Sec. 1010.955(d)(2)(iii):

(iii) *Consent to obtain information.* Before making a request for information regarding a reporting company under paragraph (b)(4)(i) of this section, the financial institution shall obtain and document the consent of the reporting company to request such information.

The proposed rule does not address the form of the consent. Instead, the preliminary commentary “invites comments” ... “regarding how consent should be obtained from reporting companies.” Wolters Kluwer would like to take this opportunity to request clarification as to whether certain options would be acceptable to FinCEN.

Typically, a reporting company’s consent for the financial institution to access FinCEN’s database for BOI related to the reporting company could be captured either in a stand-alone document, or in standard contract language included in the financial institution’s terms and conditions (if opening a deposit account) or loan agreement (for a lending relationship). With that in mind:

1. Would FinCEN accept consent language that is presented as part of the standard contract language in the financial institution's terms and conditions (for deposit accounts) or in a loan agreement (for a lending relationship)?
2. If standard contract consent language is adequate, could the consent language be included as part of the Section 326 adequate notice, or as an extension of that notice? Both would be related to customer due diligence requirements, so, to a financial institution, it might make sense to combine them.
3. If consent language may be included in a larger document (whether deposit account terms and conditions or a loan agreement), would a signature have to be captured for that specific language, or is acknowledgment of receipt of the larger document sufficient?
4. If FinCEN decides to require a stand-alone document, would the consent have to be signed by the reporting company's representative or representatives, or is acknowledgment of receipt sufficient?
5. Does FinCEN have any clear and conspicuous requirements for the consent language? For example, if it can be included in deposit terms and conditions or in the body of a loan agreement, must the language be set apart in bold type, in a box, or similar?

Wolters Kluwer appreciates the opportunity to comment on this proposed rule. If you have any questions for us, please feel free to contact us at therese.kieffer@wolterskluwer.com, karl.leslie@wolterskluwer.com, or tatyana.wentler@wolterskluwer.com.

Respectfully submitted,

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