

February 14, 2023

Mr. Himamauli Das
Acting Director
Financial Crimes Enforcement Network
U.S. Department of the Treasury
2070 Chain Bridge Road
Vienna, VA 22182

Re: Department of the Treasury's Notice of Proposed Rulemaking Titled "Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities," FINCEN-2021-0005; RIN 1506-AB49/AB59

Dear Acting Director Das,

Moody's Corporation ("Moody's") welcomes the opportunity to submit comments for consideration by the Financial Crimes Enforcement Network (FinCEN) concerning a Notice of Proposed Rulemaking regarding Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities ("NPRM") to implement the beneficial ownership reporting requirements under the Corporate Transparency Act ("CTA").

Moody's Analytics, a business segment of Moody's, is a provider of financial intelligence and analytical tools supporting our customers' growth, efficiency and risk management objectives. Within Moody's Analytics, we have developed innovative solutions to help combat financial crime and build and maintain more effective anti-money laundering and countering the financing of terrorism ("AML/CFT") compliance programs.¹ Our capabilities and innovations allow us to serve as a trusted source to financial institutions, as well as non-financial entities in the global fight against money laundering, terrorist financing, and other illicit financial flows.

Moody's appreciates FinCEN's efforts to implement the CTA provisions governing the creation of a centralized database of beneficial ownership information ("FinCEN BOI registry") as well as provisions regarding access to and protection of the information maintained in such database. We believe that broader access to the FinCEN BOI registry is paramount for authorized recipients of beneficial

¹ Moody's solutions deliver curated legal entity data from public and private sources covering over 450 million legal entities utilizing proprietary computation to unravel multi-layer, cross-border ownership structures. Moody's ultimate beneficial ownership solutions include 1.2 billion ownership links, 1.05 billion historic ownership links, and 184 million active ownership links providing valuable insights into the ownership structure of a company. We deliver real-time connectivity to primary source data, through our live global network, with direct access to official beneficial ownership registry filings in over 200 jurisdictions. Direct registry access provides original source documentation crucial to customer due diligence and Know Your Customer ("KYC") analysis and facilitates compliance with Customer Identification Program ("CIP") obligations. In addition, our solutions enable market participants to analyze ownership, control, voting power and linkages essential to uncovering actors seeking to conceal their ownership and control of legal entities as well as to comply with applicable sanctions laws, such as, for example, [U.S. Treasury's Office of Foreign Assets Control's 50% rule](#).

ownership information under the proposed rules (“authorized recipients”) to enable them to conduct effective investigations as well as customer due diligence and KYC analysis. Additionally, expanding access to such information to beneficial ownership data service providers (“BO data service providers”) would allow authorized recipients to utilize this information and address potential legal and compliance risks in a more effective manner, as described in more detail below.

I. Summary

This letter addresses the provisions of the proposed rules related to the scope and permissible uses of information obtained from the FinCEN BOI registry as well as limitations on direct access to information reported to the registry. With respect to financial institutions authorized to access the FinCEN BOI registry under the proposed rules, the limitations imposed by these rules on the scope and use of the beneficial ownership information obtained from the registry would likely significantly diminish the financial institutions’ ability to use such information for conducting effective customer due diligence and KYC analysis, identifying discrepancies in the information reported to the registry, and, where applicable, ensuring compliance with global AML/CFT requirements. In addition, restricting BO data service providers’ access to, and use of the beneficial ownership information obtained from, the FinCEN BOI registry would limit the efficacy of the essential and integrated screening tools developed by BO data service providers for the benefit of the authorized recipients, such as financial institutions, and would create additional operational burdens on the financial institutions that would need to develop and rely on their in-house systems and capabilities to obtain and process the information from the FinCEN BOI registry.

II. Limited retrieval of data from the FinCEN BOI registry would pose significant operational burdens on financial institutions and could diminish the effectiveness of their due diligence reviews

The CTA authorized FinCEN to disclose beneficial ownership information upon receipt of a request made by a financial institution subject to customer due diligence requirements, with the consent of the reporting company, to facilitate the compliance of the financial institution with such requirements under applicable law.² FinCEN clarified in the NPRM that it is not planning to permit financial institutions to run broad or open-ended queries in the beneficial ownership IT system or to receive multiple search results. Rather, FinCEN anticipates that financial institutions, with a reporting company’s consent, would submit to the system identifying information specific to that reporting company, and receive in return an electronic transcript with that entity’s beneficial ownership information.³

The limited retrieval process for beneficial ownership data from the FinCEN BOI registry (i.e., inability to run open-ended queries) contemplated in the proposed rules would pose significant operational burdens on financial institutions and could reduce their ability to mitigate other risks identified in the financial institutions’ AML/CFT compliance program. Financial institutions are the gatekeepers of the global financial system and it is critical that they are able to obtain more comprehensive access to beneficial ownership information for multiple entities to mitigate potential illicit financial activity risks imposed by customers. Financial institutions should have the ability to download comprehensive data files from the registry and use them securely in their internal data systems as well as their vendor solutions.

² See 31 U.S.C. 5336(c)(2)(B)(iii).

³ See NPRM at 77410.

III. Permissible uses by financial institutions of the FinCEN BOI registry information need to be clarified and expanded

Under the CTA, FinCEN may disclose beneficial ownership information in the registry to financial institutions only for purposes of the financial institutions' customer due diligence requirements under applicable law.⁴ We believe broader permissible uses of information obtained from the FinCEN BOI registry would, among other potential benefits, assist financial institutions with: ongoing monitoring and identification of relevant suspicious activity; enhanced due diligence investigations; fraud detection; compliance with CIP requirements and sanctions regulations; assessment of anti-bribery and corruption risk; and compliance with applicable global AML regulatory requirements. In addition, such uses would allow financial institutions to include more detailed information in their Suspicious Activity Report (SAR) filings with FinCEN. As long as the financial institutions have obtained the consent from the reporting company, above-referenced uses of information should also be permitted by the final rules.

IV. BO data service providers should have direct access to the FinCEN BOI registry

BO data service providers deliver curated datasets and technologies that provide valuable insights used in financial crime risk management and compliance. Numerous entities and organizations rely on these offerings to conduct their legally mandated due diligence screening to view networks of corporate ownership across jurisdictions, including the broader goal of identifying the use of shell companies. As one of such BO data service providers, Moody's delivers to its clients access to the most comprehensive and risk relevant insights across various business sectors and jurisdictions thereby promoting the effectiveness and efficiency of beneficial ownership identification and verification for customer and third-party due diligence. Our research solutions facilitate compliance with legally mandated due diligence requirements by enabling our clients to view networks of corporate ownership across jurisdictions, including the broader goal of identifying the abuse of shell companies. Obtaining beneficial ownership information from public registries (including U.S. registries) and comparing it with calculated beneficial ownership using Moody's solutions represents a unique and valuable approach. Through standardization of beneficial ownership data into streamlined, centralized platforms we enable increased efficiency of KYC and customer due diligence analysis and investigations. BO data service providers should have direct access to the FinCEN BOI registry at the appropriate level that would enable them to effectively integrate the beneficial ownership information from the registry into the solutions developed by the service providers and used by their clients to comply with applicable legal requirements.

We recognize, however, that the CTA contains provisions that limit access to the FinCEN BOI registry to a short list of authorized recipients and impose additional limitations on the scope of access requests and the use of beneficial ownership information by such recipients. Although we strongly believe that BO data service providers should have direct access to the FinCEN BOI registry with extended scope for the benefit of all of their clients⁵ that need the information for the purpose of detecting and preventing

⁴ See 31 U.S.C. 5336(c)(2)(B)(iii).

⁵ As an example, Moody's solutions are used by organizations outside the scope of authorized recipients of the beneficial ownership information under the proposed rules, including: (i) multinational corporates detecting and preventing bribery and corruption in their supply chains and when conducting business with third parties; (ii) leading technology and e-commerce providers combatting recurring fraud; (iii) logistics and shipping organizations combatting sanctions evasion; and (iv) non-covered financial services companies that have chosen to comply with AML/CFT and sanctions requirements.

illicit financial flows, at a minimum, we ask that the final rule provide a mechanism for BO data service providers to directly access the registry on behalf of the authorized recipients enumerated in the NPRM, in particular, financial institutions.

The CTA requires FinCEN to adopt a regulation governing the form and manner in which beneficial ownership information will be provided to financial institutions that are authorized to request and access such information pursuant to the CTA.⁶ The proposed section 1010.955(b)(4) of the NPRM provides that upon receipt of a request from a financial institution subject to customer due diligence requirements under applicable law for information to be used for facilitating such compliance, FinCEN may disclose beneficial ownership information to such financial institution, provided that each reporting company that reported such information consents to such disclosure.⁷ Moody's respectfully recommends that FinCEN modify the proposed section 1010.955(b)(4) to provide that requests to FinCEN under this section can be made by either a financial institution subject to customer due diligence requirements *or a beneficial ownership data service provider on behalf of such financial institution*.

In conducting customer due diligence and KYC analysis, financial institutions frequently partner with BO data service providers to leverage the service providers' comprehensive solutions and broad expertise. Understanding beneficial ownership and control requires a multi-pronged approach, using, among other sources, primary source registry data, cross-border mergers and acquisitions research as well as sophisticated ownership computation. These key capabilities and services offered by BO data service providers are used by financial institutions to more effectively identify illicit financial flows and related suspicious activity. Centralized global beneficial ownership information offered by BO data service providers that includes U.S. beneficial ownership information would enhance financial institution clients' ability to comply, among other things, with FinCEN's Customer Due Diligence Rule, KYC and CPP requirements; sanctions regulations; and global AML/CFT regulations, and would allow for improved network analysis, relationship mapping, targeting, and exposing of criminals establishing shell companies or intending to abuse the global financial system.

Financial institutions will also need to efficiently mitigate the risk of reliance on self-disclosed and potentially outdated or omitted information submitted by reporting companies to FinCEN. BO data service providers can help their clients perform verification of customer information. For example, Moody's research solutions provide access to data that is continuously updated and monitored, which is invaluable to customer due diligence processes and verification of data. Enhanced ability to detect changes and deviations in customer profiles aids in the evolution of traditional customer due diligence processes to more effective trigger-based approaches.

Enabling access to the FinCEN BOI registry for BO data service providers that offer beneficial ownership due diligence services to authorized recipients covered by the proposed rules would enhance the authorized recipients' ability to comply with their respective legal mandates.

In conclusion, we ask FinCEN to exercise its authority in its broadest scope to expand through rulemaking: (i) the scope of the beneficial ownership information that can be obtained from the FinCEN BO registry; (ii) the permissible uses of such information, including for purposes of performing other reviews set forth in the AML/CFT compliance program; and (iii) access to the registry to include BOI data service providers for the benefit of the authorized recipients enumerated in the NPRM.

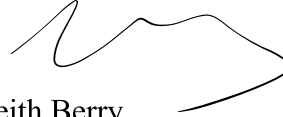
⁶ See 31 U.S.C. 5336(c)(2)(C).

⁷ See NPRM, proposed 31 C.F.R. §1010.955(b)(4).

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Moody's appreciates the opportunity to comment on the NPRM. If you have any questions, please do not hesitate to contact Natasha Kaden, Senior Vice President, Government, Public and Regulatory Affairs, at Natasha.Kaden@moodys.com, or me at Keith.Berry@moodys.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Berry', with a stylized, sweeping flourish extending to the right.

Keith Berry
General Manager
KYC & Compliance