



Joseph Kraus, Ph.D.
Senior Policy Director
The ONE Campaign
1299 Pennsylvania Ave. NW, Suite 400
Washington, DC 20004

February 14, 2023

Acting Director Himamauli Das
Financial Crimes Enforcement Network
U.S. Department of the Treasury
P.O. Box 39
Vienna, VA 22183

RE: Beneficial Ownership Information Reporting Requirements
Docket Number: FINCEN-2021-0005; RIN: 1506-AB49/AB59

Dear Acting Director Das,

The ONE Campaign appreciates the opportunity to comment on the Financial Crimes Enforcement Network's (FinCEN) notice of proposed rulemaking regarding access by authorized recipients to beneficial ownership information pursuant to section 6403 of the Corporate Transparency Act (CTA).¹

The ONE Campaign is a global movement campaigning to end extreme poverty and preventable disease. We believe that transparency of beneficial ownership information is critical for cracking down on corruption and crime, both in the United States and around the world.

FinCEN should be commended for adopting a first final rule in September 2022 to implement the CTA and for a proposed rule that closely aligns to the statute in specific areas. However, the final rule should incorporate several measures to ensure the effective and robust implementation of the CTA. In particular, we urge FinCEN to:

- **Address the CTA's statutory requirement that the information in the beneficial ownership directory is verified.** This includes issuing a final rule that ensures that 1) individuals submitting information are identified and authorized, 2) submitted information is validated, 3) the beneficial ownership information is verified to be accurate, and 4) the accuracy of previously submitted data is maintained. These measures are critical for establishing and maintaining the accuracy and credibility of the beneficial ownership information and the directory, as well as for ensuring the faithful implementation of the CTA.
- **Remove impediments to state, local, and tribal authority access.** Given the complex structures of many corporate entities, which oftentimes cut across numerous local, state, and international jurisdictions, law enforcement officials at all levels have an important role to play in combatting corruption and crime. The final rule should avoid impeding the ability of state, local, or tribal law enforcement from accessing the beneficial ownership directory. To this end, the final rule should avoid narrowing the concepts of "officers of the court" or "court authorization."

¹ Financial Crimes Enforcement Network (FinCEN), "Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities," Federal Register, 87 FR 77404 (Docket Number: FINCEN-2021-0005, RIN: 1506-AB49/AB59), Dec. 16, 2022, <https://www.federalregister.gov/documents/2022/12/16/2022-27031/beneficial-ownership-information-access-and-safeguards-and-use-of-fincen-identifiers-for-entities>.

- **Clarify its role and those of other statutory actors in determining access to the beneficial ownership directory.** FinCEN should explicitly state that it does not intend to review access determinations on a case-by-case basis prior to authorized users accessing the beneficial ownership directory. Additionally, FinCEN should (1) clarify or remove its addition of references to agency “justifications” in connection with access, and (2) remove FinCEN’s “sole discretion” in describing the authority FinCEN has in determining whether to deny a request for access (or whether it has the ability to bar an agency from directory access).
- **Make explicit that agencies required to audit the directory under the CTA have access to it.** This should include, inter alia, the Treasury Inspector General and the US Comptroller General at the Government Accountability Office.
- **Clarify that financial institution access to the directory conforms with the CTA.** The final rule should make clear that financial institution access is allowed pursuant to customer due diligence requirements consistent with the intent of the statute.
- **Clarify certain aspects of foreign authority access to the directory that are inconsistent with the CTA.** FinCEN should provide clarification regarding the training and authentication protocols necessary for foreign access and the definition of trusted countries so as to promote consistent access that advances US national security, intelligence, and law enforcement efforts.
- **Clarify that procedurally related disclosure in civil and criminal proceedings involving federal, state, local, and tribal laws is not subject to additional review.** The proposed rule contemplates the authorized redisclosure of this information to a court of competent jurisdiction or parties to the proceeding. The final rule should clarify that procedurally related disclosure is not subject to additional review.
- **Clarify that certain applicable security and confidentiality requirements applying to authorized users do not need to be verified or reauthorized for each request for information.** The final rule should make clear that certain access protocols are intended to govern access generally and not on a per-request basis. The latter approach would needlessly hinder the efficient and effective use of the directory as outlined in the statute.

We greatly appreciate FinCEN’s concerted effort to implement the CTA and stand ready to assist going forward.

Sincerely,

