

February 28, 2020

Via Electronic Submission

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

Re: Request for Comment on Beneficial Ownership Requirements for Legal Entity Customers
(Docket Number FINCEN—2019—0007; OMB Number 1506—0070)

Ladies and Gentlemen:

HSBC North America Holdings appreciates the opportunity to submit comments to the Financial Crimes Enforcement Network on its notice to renew without change beneficial ownership requirements for legal entity customers, promulgated under the Customer Due Diligence rule. Since the CDD rule's finalization in 2016 and effective date in 2018, HSBC has placed significant focus on the development of account onboarding practices and employee training procedures so as to adhere to the rule's requirement to collect beneficial ownership information for most legal entity customers at account opening or when a triggering event occurs. HSBC's responses to specific requested areas of feedback are below.

I. Accuracy of the agency's estimate of the burden of the collection of information

HSBC believes that current agency estimates are significantly below average internal bank processing timelines. The notice estimates that procedures for adherence with the requirements of the rule take between 20 and 40 minutes per new legal entity customer and 20 minutes to update and maintain beneficial ownership identification. HSBC's experience is an average processing time of 90-120 minutes for the onboarding of new to bank customers. Processing time for the renewal and confirmation of information for existing customers is approximately half that of new to bank customer onboarding. It is important to note that these average times do not account for customer time in responding to queries for information, nor the additional time required when structures are particularly complex.

II. Ways to enhance the quality, utility, and clarity of the information to be collected

HSBC believes that both the information collected, and the methods used to do so, should be focused on improving the management of financial crime risk, supporting financial inclusion and improving the customer journey as we onboard customers. As such, HSBC would like secure digital access to a wide range of customer data attributes from reputable sources, predicated on customer consent. This needs to include on-demand digital access to government held sources, of which beneficial ownership registers is but one example.

With the right technology there is the opportunity to access customer data attributes from reputable sources digitally, offer a seamless digital customer journey, evidence customer consent, keep data secure, improve the effectiveness of CDD processes and reduce the burden on our customers. With digital access to a wide range of customer data attributes we can improve financial inclusion by seeking out data assurance for KYC for customers who may not hold the traditional required paper documentation such as passports or utility bills. Technology will also allow us to keep pace with financial

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crime threats by giving us the opportunity to request additional digital data attributes and compare data from multiple sources to alert us to potential crime.

HSBC believes that regulation in the United States and most countries must adjust to reflect the opportunity offered by digital sources of customer data including Digital Identity. Digital Identity should be based on the direct provision of identity attributes by reputable sources, such as governments, banks, utilities, telecommunication companies and credit bureaus. While we recognize that government-sponsored and -mandated identity schemes have a role to play, these require pre-agreement of a set of customer data across industries which will take time and present issues in terms of rapid responses to changing technology and requirements. In order for Digital Identity to be used in accessing key services, such as those provided by governments, financial institutions and utilities, it is critical that entry to the system is governed by robust controls, such as those already in place within existing ID&V processes.

Customer Identity attributes should be provided together with additional data that provides more intelligence, on the basis of which consuming institutions can make decisions. This might include date of birth for screening, but also cell phone numbers, IP addresses etc. It is important that individual consumers of identity attributes are able to maintain their own risk appetite for the use of these data, and can be held accountable for this use.

Customers should be able to view and correct their data, and to provide consent for the use of their identity attributes at the point of use. From both a compliance and a consumer protection perspective, it is important that individuals are able to maintain ownership and control of both access to, and use of, their data.

HSBC believes that existing solutions, similar to those live in other countries, which are led by the major banks, constitute an intelligent approach to improving the management of financial crime risk, improving the customer journey and supporting financial inclusion. Such tools allow the secure exchange of “triple-blind” data from multiple sources with customer consent and data privacy considerations paramount. HSBC understands that equivalent solutions will soon be licensed for use in the US through Early Warning Services and is looking forward to participating in these initiatives.

III. Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology

As described in detail under section II above, HSBC believes that ultimately the optimal risk-based solution lies not in reliance on government schemes, nor in placing the onus on individual obliged entities, but instead on providing the widest range of trustworthy data to those in both the public sector and private sector who are working individually and collectively to tackle abuse of the financial system.

As noted, centralized ultimate beneficial ownership registers are one such source of data which can improve transparency, and help protect the financial system. Such registers are most effective when the information they hold is accurate and up-to-date, verified by the registry authority, appropriately accessible to all engaged in the fight against abuse of the financial system and comprehensive, ideally incorporating trusts and equivalent arrangements. As such, HSBC is supportive of current legislative proposals to address the need for a UBO registry in the United States.

HSBC also recognizes that the solutions detailed above are a longer term endeavor and believes that more immediate burden reduction can be achieved via additional, risk-based exemptions and exceptive relief. Many of the more burdensome issues associated with implementing the beneficial ownership requirements are directly attributable to the rule's application at the account level, rather than the customer level. HSBC believes that collection and certification requirements should be set at the legal entity level with recollection on a risk-basis using existing, ongoing review practices, consistent with other attributes of customer due diligence. In addition, exemptions should be provided for lower risk legal entity customers including foreign publicly traded companies, foreign subsidiaries of US publicly traded companies and supranational organizations.

HSBC appreciates the opportunity to submit comments concerning FinCEN's proposed renewal without change of beneficial ownership information collection requirements. If you have any questions, please contact the undersigned by phone at 212-525-7464 or by email at john.panagopoulos@us.hsbc.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John Panagopoulos', written in a cursive style.

John Panagopoulos

U.S. Head of Financial Crime Compliance

HSBC North America Holdings Inc.