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How the Corporate Transparency Act Can Plug Holes Exposed by the “FinCEN Files”

A TI-US FACTSHEET

What are the FinCEN Files?

- On September 20th, BuzzFeed News and an international coalition of 400 journalists across 88 countries released the results of their year-long analysis of a massive trove of government documents—exposing how \$2 trillion in suspected dirty money was laundered through the global banking system, including \$1 trillion through U.S. banks.
- These “[FinCEN Files](#)” offered an unprecedented view of global financial corruption, and broadcast to a global audience the consequences of gaps in U.S. anti-money laundering laws.

Money laundering is a crime that makes other crimes possible. It can accelerate economic inequality, drain public funds, undermine democracy, and destabilize nations—and the banks play a key role.

–FinCEN Files

What gaps did the FinCEN Files expose?

- **A lack of data.** The federal Bank Secrecy Act (“BSA”) requires banks to file Suspicious Activity Reports (“SARs”) with the Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”) whenever a bank has reason to suspect that a transaction involves money laundering or other criminal activity, or appears to lack a lawful purpose. In half of the SARs uncovered in the FinCEN Files, banks did not know the true owners of the accounts involved, because U.S. law did not require companies to disclose this information. FinCEN’s subsequent Customer Due Diligence Rule (“CDD Rule”) helped to address this loophole, but even today banks may not be getting the information they need.
- **Poor communication.** Millions of SARs were simply filed and forgotten—with little dialogue, engagement, or partnership between banks and law enforcement. In addition, banks are limited in what information they can share with other branches of the same institution.
- **Outdated technology.** There is a desperate need for new technologies that can improve the effectiveness of transaction monitoring.

The U.S.’s anti-money laundering rules have not been significantly updated in almost 20 years.

How would the Corporate Transparency Act fill these gaps?

- **More data.** The [CTA](#) would provide banks and U.S. law enforcement with additional information about who is behind the anonymous shell companies that move money through U.S. banks and other entry points to the U.S. financial system. This would complement the CDD Rule by providing consistency across anti-money laundering rules, give banks

The pervasive use of shell companies is a significant loophole in this country’s anti-money laundering regime.

- *FBI Acting Deputy Assistant Director, Criminal Investigative Division, Steven D’Antuono*

an additional check on the information they receive, and extend disclosure requirements to entities that go around the banking system.

- **Better communication.** The CTA would appoint at least 6 FinCEN Domestic Liaisons to perform outreach to BSA bank officers, require Treasury to review best practices from the private sector to better share information across banks in different countries, and develop recommendations for improving communication between the private sector, FinCEN, and federal agencies—strengthening dialogue and feedback loops with law enforcement and bolstering financial intelligence sharing partnerships.
- **Increased use of new technology.** The CTA would require FinCEN to study how it could better utilize innovative technologies, such as machine learning and digital identification, in order to better analyze and share information with law enforcement.

The Corporate Transparency Act has already been included in the House defense bill. If the Senate were to include it in their defense package, the United States could respond to problems exposed by the “FinCEN Files” with serious, impactful changes.

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