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CLIENT & FRIENDS ALERT¹

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The Hunt for Personal Information:
The Growing Tension Between Privacy and Money Laundering Laws

There is a growing tension between two Western policies: privacy protection (especially that of personal information) on the one hand and money laundering enforcement on the other.

The first of these policies, privacy protection, enjoys broad coverage under numerous U.S. and foreign privacy laws (for example, the European Union's General Data Protection Regulation (GDPR) with its long, extra-territorial reach).

The U.S. framework is especially complex. Unlike that of the GDPR and other foreign jurisdictions having uniform privacy laws, domestic privacy laws consist of a patchwork of federal and state laws, such as the general consumer privacy law (enforced by the Federal Trade Commission under the FTC Act), protection of customer proprietary network information (CPNI) delivered over telecommunications networks and prohibition on its interception under the Electronic Communications Privacy Act (both enforced by the Federal Communications Commission), industry specific privacy laws (such as the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act, and the Health Breach Notification Rule (HIPPA)). Add to that numerous state privacy, data breach protection laws, and civil remedies for violation of common law privacy. All of these laws evidence a strong national policy in favor of protecting private personal information.²

¹ While accurate to the best of our knowledge, this discussion is for tutorial purposes only, is neither a legal opinion nor legal advice. Please contact us if you have any questions regarding this disclaimer.

² Further, while a discussion of European privacy laws - such as the General Data Protection Law (GDPR) of the European Union - is beyond the scope of this alert, the GDPR's emphasis on personal privacy protection is even more stringent than that of the U.S.

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1. The Hunt for Personal Information

But the second, conflicting policy goes the other way: collection and the mandatory disclosure of beneficial ownership information of certain companies – call it the “Hunt for Personal Information”, all ostensibly to support the U.S. efforts to fight money laundering.

The discussion below summarizes the most recent efforts of these efforts, the Financial Crimes Enforcement Network (FinCEN) regarding beneficial ownership reporting requirements for U.S. all-cash residential real estate transactions, said to be a money-laundering favorite.

As discussed in prior alerts,³ U.S. money-laundering laws have been weaponized by U.S. officials,⁴ initially (according to then Treasury Secretary Janet Yellen) to combat illicit activity such as tax and sanctions evasion, drug trafficking, and terrorism financing using opaque corporate structures to hide identity.

By FinCEN’s own estimate, some 32.6 million small businesses had been enlisted in this effort through required Beneficial Ownership Information (BOI) filings⁵ under the Corporate Transparency Act (CTA) until first, a federal district court in Texas (December 3, 2024) and then, the Fifth Circuit Court of Appeals, issued a nationwide injunction blocking the enforcement of these reporting requirements. Since then, FinCEN issued an interim final rule exempting all domestic (but not foreign) entities from BOI reporting requirements. Meanwhile, under the Trump 2.0 administration, money laundering enforcement efforts shifted to target drug traffickers in Mexico, Venezuela, and elsewhere in the Southern Hemisphere.

Moreover, in addition to these somewhat relaxed CTA reporting requirements,⁶ there remain overlapping BOI reports required under the Bank Secrecy Act (enforced by the Treasury Department),⁷ - most recently, under the Real Estate Transactions Reporting Rule (summarized below).

2. Money Laundering and Real Estate Transactions – New Federal Reporting Rule

On August 29, 2024, FinCEN issued its Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule (the “RRE Rule”). The RRE Rule establishes new reporting requirements for certain all-cash residential real estate transactions, requiring

³ See <https://wstecomlaw.com/2025/02/corporate-transparency-act-cta-a-synopsis/>.

⁴ See, e.g., <https://home.treasury.gov/news/press-releases/jy2017#:~:text=Corporate%20transparency%20can%20bring%20economic,%2C%20we've%20taken%20action>

⁵ <https://www.federalregister.gov/documents/2022/09/30/2022-21020/beneficial-ownership-information-reporting-requirements>

⁶ <https://wstecomlaw.com/2025/02/corporate-transparency-act-cta-a-synopsis/>. Domestic reporting companies are now exempt from the CTA’s reporting of beneficial ownership. <https://www.fincen.gov/news/news-releases/fincen-removes-beneficial-ownership-reporting-requirements-us-companies-and-us>

⁷ See <https://wstecomlaw.com/wp-content/uploads/2024/02/Fireside-Chat-Highlights-1-22-2014.pdf>

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designated “reporting persons” (including settlement agents, title insurers, escrow agents, and, in some cases, attorneys or real estate professionals) to file a Real Estate Report with FinCEN.⁸

On September 30, 2025, FinCEN announced that the effective date of the RRE Rule has been postponed until March 1, 2026.⁹ This delay is intended to provide the real estate industry additional time to prepare for compliance while ensuring that the U.S. financial system remains protected from illicit finance risks.

3. Comparative Beneficial Ownership Information (BOI) Compliance Obligations

In sum, the new RRE Rule joins other federal transparency regimes requiring BOI disclosure – summarized as follows.

1. Corporate Transparency Act (CTA) – As amended, applies only to U.S. entities that are foreign-owned or controlled. Requires reporting of BOI to FinCEN.¹⁰
2. Bank Secrecy Act (BSA) – Requires financial institutions (*e.g.*, banks) to identify and verify BOI of legal entity customers through Customer Due Diligence (CDD) rules.
3. Residential Real Estate Reporting Rule (RRE Rule) – Requires reporting persons in covered real estate transactions to report BOI of transferees to FinCEN via the Real Estate Report.

By extending beneficial ownership disclosure requirements into the all-cash residential real estate market, the RRE Rule reinforces the U.S. government’s broader strategy to deny sanctioned and illicit actors’ access to the U.S. financial system and high-value assets.

4. The Tension Between BOI Compliance and Privacy Protection

So how does one reconcile the tension between privacy protection and the hunt for personal information (largely through mandatory disclosure of personal identity and other private information to the government)? Through assurances that personal information will be stored in frequently hacked government databases? Through limited yet lawful disclosures erring on the side of disclosing less rather than more (for example, through a narrow reading of “control person”)? Through anticipatory discussions with personal bankers, when a cross-border financial transfer may trigger a suspicious activity report under the BSA? And perhaps most

⁸ Real Estate Report Form: <https://www.fincen.gov/system/files/2025-09/RER-Form-508C.pdf>

⁹ Press Release: <https://www.fincen.gov/news/news-releases/fincen-announces-postponement-residential-real-estate-reporting-until-march-1>

¹⁰ See “The Corporate Transparency Act (CTA) – At War with Itself” <https://wstecomlaw.com/wp-content/uploads/2025/09/CTA-Alert-4.1.25.pdf>

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importantly, through a thorough understanding of the tangled web of domestic and foreign privacy laws and their intersection with BOI reporting obligations.

All this will be the subject of a future webinar: “Privacy in the New World Order: The Hunt for Personal Information”. Announcements will follow on our website: www.wstelecomlaw.com. Stay tuned.

And of course, as always, if you have questions or comments (or need BOI compliance assistance with regard to the above rules), please contact us at wsapronov@wstelecomlaw.com, at info@wstelecomlaw.com, or at (770) 309-0462.