

Oral Statement
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U.S. Senate Committee on Banking Housing and Urban Affairs
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Chairman Crapo, Ranking Member Brown, and members of the Committee, thank you for the opportunity to appear today to discuss the threats posed to our financial system by the use of shell companies and some methods to better identify the true beneficial owners of assets. The Office of the Comptroller of the Currency welcomes the Congressional focus on protecting the financial system from misuse through effective implementation of the beneficial ownership legal regime. We support legislative action to improve the regime's effectiveness. One suggestion is for Congress to establish a consistent, nationwide requirement that legal entities provide and update accurate beneficial ownership information. Such a requirement would ensure that financial institutions have a resource against which they can verify the beneficial ownership data provided when a company opens a bank account. Alternatively, Congress could consider creating a centralized database for the maintenance of the beneficial ownership information.

Today's beneficial ownership requirements are part of the Customer Due Diligence Rule issued by FinCEN in 2016. That rule became effective in May 2018. It requires banks to establish and maintain policies and procedures to identify the beneficial owners who own 25 percent or more of a legal entity customer, as well as the individual who controls the legal entity, when that customer opens a new account. Banks must also verify the identity of each named owner according to risk-based procedures. Further, the rule requires banks to conduct ongoing monitoring and incorporate customer information

into systems for identifying suspicious transactions and, on a risk basis, to maintain and update customer information. The OCC examines national banks, federal savings associations, and federal branches of foreign banking organizations to ensure compliance with the requirements of the rule.

The experience our examiners have gained from their review of bank compliance with these requirements has provided the OCC with unique insights into current challenges banks face in meeting the goals of the rule. This perspective has helped us develop recommendations to strengthen the beneficial ownership regime for our financial system.

Through our examination process, the OCC has found that banks have generally implemented appropriate policies and procedures for identifying beneficial owners and verifying their identities in compliance with the rule's requirements. However, our examinations also have identified several challenges the industry faces in achieving the rule's objectives.

My written statement discusses several challenges; however, the most significant obstacle we have observed is the absence of reliable sources against which a bank can independently verify the accuracy of the beneficial ownership information provided when a legal entity opens an account. Unfortunately, many states do not collect this information at the time a company is formed, or in subsequent filings or reports. Where this information is collected, there is no consistency in the information captured or maintained.

To address these challenges, the OCC supports congressional action to require legal entities to provide consistent information when they are formed or registered. We

recommend that all legal entities be required to provide their ownership information as a condition of having a bank account in the United States. They also should be required to periodically update their information to ensure that it remains accurate. The data should be collected in a consistent format to ensure completeness regardless of where a legal entity is formed. Finally, individuals providing beneficial ownership information should be held accountable for making false statements.

While we support a requirement for legal entities to provide consistent data, Congress alternatively could consider the creation of a centralized database to house beneficial ownership information. Providing a reliable source for banks to verify the information is critical to meeting the objectives of the beneficial ownership rule.

Regardless of how information is captured, we are keenly aware of the importance of establishing a balance between the need for this information and important data protection and privacy rights. Congress could consider reviewing best practices from other jurisdictions that use corporate registries to collect and maintain beneficial ownership information and consider how these could apply to U.S. needs. Careful consideration should be given to implementing security measures governing access to the data. Providing a better source for banks to verify the accuracy of the beneficial ownership data they receive will allow them to better comply with the requirements and intent of the beneficial ownership rule.

Thank you again for inviting me today. I look forward to your questions.