

May 20, 2019

The Honorable Michael Crapo
Chairman
Senate Banking, Housing and Urban
Affairs Committee
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Senate Banking, Housing and Urban
Affairs Committee
Washington, D.C. 20150

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the members of the American Bankers Association, I write to express our support for the Committee's efforts to examine illicit financing and beneficial ownership requirements. This is a matter of great importance, and ABA supports congressional and regulatory efforts to bring enhanced transparency to corporate entities.

It has been nearly a year since the Treasury-drafted Customer Due Diligence rule went into full effect. When the rule was issued in May 2016, Treasury recommended that Congress adopt legislation to create a federal registry for beneficial owners, a step that ABA supports. While the rule provided some clarity for banks, one of the flaws in the rule is that there is no mechanism to verify the information that bank customers provide. ABA strongly believes that a federal registry would help rectify that flaw.

The rule was adopted to address concerns by international bodies and law enforcement about the lack of transparency in corporate structures and to help identify the individuals who control or benefit from those legal entities. The void in obtaining beneficial ownership information has long been a concern of law enforcement because it helps criminals hide behind corporate structures – especially shell companies – to move illicit funds. While the rule was a step in the right direction, it is limited to those companies over which Treasury had authority.

A single federal registry would also help ease the burden on companies because the beneficial ownership information would be located in one place. A company would not be required to provide that information to a financial institution each and every time it opens a new account. The information also would be readily accessible to law enforcement and would provide an easy way for financial institutions to verify beneficial ownership information.

Concerns have been raised about a possible burden on small businesses. We are mindful of these concerns, but there are ways to ensure those businesses are notified about the requirements. Giving Treasury regulatory authority to implement the requirement would help address those concerns. It also is important that financial institutions be able to access the information without seeking customer permission; requiring customer consent adds an unnecessary step to the process and also will serve as a barrier to FinCEN allowing banks to rely on the database instead of customer certification. And, Treasury should be required to update the existing rule to be consistent with the Congressional mandate.

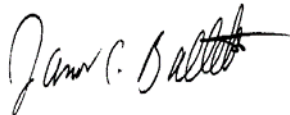
While some have suggested that existing information filed with the Internal Revenue Service would provide an alternative to the creation of a federal registry, the information filed with the IRS lacks key elements. Furthermore, the IRS has been reluctant to grant the broad access to its records that would be necessary to meet the needs of the financial sector and law enforcement.

Finally, while the most logical transition to a federal registry would be to have companies register at the time of formation, a mechanism needs to be adopted to transition in companies that already exist. A cliff registration after two years will cause a burden on the manager of the database. Instead, a phased-in process would be the most effective and efficient way to incorporate existing companies into the database.

ABA strongly believes that a carefully structured federal registry would go a long way to meet the needs of law enforcement and prevent criminals and terrorists from abusing the corporate structure to hide and move illicit funds. It would also create an avenue to alleviate burden on financial institutions and their customers inherent in the existing process.

ABA looks forward to working with Congress to craft an effective federal registry for beneficial owners.

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Ballentine". The signature is fluid and cursive, with a long horizontal stroke at the end.

James C. Ballentine

cc: Members of the Senate Banking, Housing and Urban Affairs Committee