Banking and Finance Law Daily Wrap Up, BANK SECRECY ACT—House Bill would target anonymous shell companies to combat money laundering, (May 6, 2019)

Banking and Finance Law Daily Wrap Up

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A bipartisan bill has been reintroduced in the House of Representatives that would require companies to disclose beneficial ownership in a bid to target shell companies.

Representatives Carolyn B. Maloney (D-NY), Peter King (R-NY), and Tom Malinowski (D-NJ) have introduced a bill in the House of Representatives that is intended to target companies that are more likely to be shell companies. H.R. 2513, The Corporate Transparency Act, would require companies to disclose their beneficial owners to prevent the use of shell companies. “It is absurd that the US allows criminals to launder their money here. We're the only advanced country in the world that doesn't already require disclosure of beneficial ownership information and my Corporate Transparency Act will change that,” said Maloney. She decried anonymous shell companies as “the preferred vehicle for money launderers, criminal organizations, and terrorist groups.”

Criminals are taking advantage of state laws by establishing firms—often without a physical presence or business activity—to access our banking system,” said King. He stated that the bill targets the illegal activity “by requiring a company that has the characteristics of a shell corporation to disclose who benefits from the company's operations and makes that information available only to law enforcement.”

Requirements and exemptions. The bill would require corporations and limited liability companies to disclose their beneficial owners to the Financial Crimes Enforcement Network at the time the company is formed. The minimum beneficial ownership information that would need to be disclosed include beneficial owners' name, date of birth, current address, and driver's license or non-expired passport number. Additionally, the bill requires companies to file annually with FinCEN a list of its current beneficial owners, as well as a list of any changes in beneficial ownership that occurred during the previous year. The bill includes civil and criminal penalties for anyone who willfully submit false or fraudulent beneficial ownership information, or who knowingly fail to provide complete or updated beneficial ownership information.

According to the a release by Maloney, beneficial ownership information collected by the Treasury Department or by individual states will only be available to law enforcement and financial institutions, with customer consent, for purposes of complying with their “Know Your Customer” requirements under Anti-Money Laundering law.

The bill excludes companies with over 20 employees and over $5 million in gross receipts or sales, and which have a physical presence in the U.S. This is because companies that employ this many people and that have legitimate, business-related income are very unlikely to be anonymous shell companies that were created to hide or launder illicit funds, according to the release.

Also exempt from the bill's requirements are companies that are already required to disclose their beneficial owners, including federally regulated banks, credit unions, investment advisers, broker-dealers, state-regulated insurance companies, churches, and charitable organizations.

Previously introduced. Reps. Maloney and King also introduced the Incorporation Transparency and Law Enforcement Assistance Act (H.R. 4450) in the 113th Congress. That bill would have directed the Treasury Department to issue regulations requiring corporations and limited liability companies formed in a state that does not already require basic disclosure to file information about their beneficial ownership with Treasury as a backup. The measure also provides minimum disclosure requirements for states and civil penalties for those who

submit fraudulent, incomplete, or outdated information when setting up a corporation (see *Banking and Finance Law Daily*, Feb. 4, 2016).

Maloney and King first introduced The Corporate Transparency Act in June 2017 (see Banking and Finance Law Daily, June 29, 2017).

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