

# International **Comparative** Legal Guides



## Anti-Money Laundering **2021**

A practical cross-border insight into anti-money laundering law

**Fourth Edition**

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## Expert Analysis Chapters

- 1** **The Anti-Money Laundering Act of 2020's Corporate Transparency Act**  
Stephanie L. Brooker & M. Kendall Day, Gibson, Dunn & Crutcher LLP
- 8** **Anti-Money Laundering and Cryptocurrency: Legislative Reform and Enforcement**  
Kevin Roberts, Duncan Grieve, Shruti Chandhok & Charlotte Glaser, Cadwalader, Wickersham & Taft LLP
- 14** **EU Legislation in the Area of AML: Historical Perspective and *Quo Vadis***  
Stefaan Loosveld, Linklaters LLP
- 21** **Anti-Money Laundering in the Asia-Pacific Region: An Overview of the International Law Enforcement and Regulatory Frameworks**  
Dennis Miralis & Phillip Gibson, Nyman Gibson Miralis

## Q&A Chapters

- 33** **Australia**  
King & Wood Mallesons: Kate Jackson-Maynes
- 41** **Belgium**  
Linklaters LLP: Xavier Taton & Sacha Vanderveken
- 48** **Brazil**  
Joyce Roysen Advogados: Joyce Roysen & Veridiana Vianna
- 56** **China**  
King & Wood Mallesons: Stanley Zhou, Yu Leimin, Wang Rong & Liang Yixuan
- 63** **Colombia**  
Fabio Humar Abogados: Fabio Humar
- 70** **France**  
Bonifassi Avocats: Stéphane Bonifassi
- 80** **Germany**  
Herbert Smith Freehills LLP: Dr. Dirk Seiler & Enno Appel
- 87** **Greece**  
Anagnostopoulos: Ilias G. Anagnostopoulos & Alexandros D. Tsagkalidis
- 95** **Hong Kong**  
King & Wood Mallesons: Urszula McCormack & Leonie Tear
- 102** **Ireland**  
Matheson: Joe Beashel & James O'Doherty
- 108** **Isle of Man**  
DQ Advocates Limited: Kathryn Sharman & Michael Nudd
- 115** **Italy**  
Portolano Cavallo: Ilaria Curti
- 121** **Japan**  
Nakasaki & Sato Law Firm: Ryu Nakasaki & Kei Nakamura
- 127** **Korea**  
Kobre & Kim LLP: Robin J. Baik & Daniel S. Lee  
Bae, Kim & Lee LLC: Jeena Kim & Daniel Joonwu Park
- 134** **Liechtenstein**  
Marxer & Partner Attorneys at Law: Laura Negele-Vogt, Dr. Stefan Wenaweser & Dr. Sascha Brunner
- 142** **Malta**  
City Legal: Dr. Emma Grech & Dr. Christina M. Laudi
- 150** **Mexico**  
Galicia Abogados, S.C.: Humberto Pérez-Rocha Ituarte & Luciano A. Jiménez Gómez
- 158** **Netherlands**  
JahaeRaymakers: Jurjan Geertsma & Madelon Stevens
- 166** **Nigeria**  
Threshing Fields Law: Frederick Festus Ntido
- 172** **Pakistan**  
S. U. Khan Associates Corporate & Legal Consultants: Saifullah Khan & Saeed Hasan Khan
- 179** **Portugal**  
Morais Leitão, Galvão Teles, Soares da Silva & Associados: Tiago Geraldo, Frederico Machado Simões & Edgar da Silva Palma

186

**Romania**

Enache Pirtea & Associates: Simona Pirtea & Mădălin Enache

194

**Singapore**

Drew & Napier LLC: Gary Low & Victor David Lau

201

**Spain**

Geijo & Associates: Arantxa Geijo Jiménez & Elena Bescos Gracia

209

**Switzerland**

Kellerhals Carrard: Dr. Omar Abo Youssef & Lea Ruckstuhl

218

**United Arab Emirates**

BSA Ahmad Bin Hezeem & Associates LLP: Rima Mrad & Tala Azar

225

**United Kingdom**

White & Case LLP: Jonah Anderson

234

**USA**

Gibson, Dunn & Crutcher LLP: Joel M. Cohen & Linda Noonan

# The Anti-Money Laundering Act of 2020's Corporate Transparency Act

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## Introduction

Despite far-reaching anti-money laundering (“AML”) legal and regulatory requirements in the U.S.—as well as compliance efforts by financial institutions and other businesses subject to AML regulations—U.S. law enforcement agencies, like law enforcement agencies in other countries, identify and address only a small fraction of money laundering and terrorist financing activity. Experts vary on their theories as to the root cause of this lack of progress in the AML space. However, there appears to be consensus that a key impediment to law enforcement is the ability of bad actors to establish legal structures whose ownership is purposefully obscured and *de facto* anonymous and conduct financial transactions through them.

After discussing this issue for many years, the Financial Action Task Force (“FATF”), an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, recommended in 2003 that governments ensure that reliable information about the true identity of beneficial owners of legal entities and trusts are collected, maintained, and available to government authorities, either through a corporate registry or other means, in order to better facilitate the investigation and prosecution of money laundering.<sup>1</sup> As discussed further herein, FATF has since reemphasized and updated this recommendation multiple times, with the most recent update in October 2019.<sup>2</sup>

For almost two decades, the United States did not fully comply with FATF’s guidance, even as other countries put into place requirements consistent with the guidance. Although the Customer Due Diligence Rule (“CDD Rule”) of the U.S. Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”), discussed below, partially addressed FATF’s guidance on beneficial ownership, U.S. states were left to determine for themselves whether or not legal entities could be established without proof and recording of beneficial ownership information. As a result, the United States has had several jurisdictions, including as is most well known, Delaware, in which bad actors could establish legal entities without active business operations and whose ownership is not readily tied to anyone—commonly referred to as shell companies—in order to use those entities nefariously in a *de facto* anonymous manner. However, with the passage of the Corporate Transparency Act (“CTA”), as part of the Anti-Money Laundering Act of 2020 (“AMLA”),<sup>3</sup> this is all about to change. As discussed in detail in this chapter, the CTA requires that certain legal entities that could be non-operating or shell companies file beneficial ownership information with FinCEN, and that FinCEN maintain a non-public national corporate registry of that information.

## Background

The ability to establish anonymous legal structures can be for legitimate purposes, but has also enabled and promoted all manner of illegal activity according to charges in criminal cases, including drug smuggling, terrorism, bribery and corruption, fraud, kleptocracy, and human trafficking, among others. Despite the perception that this issue is confined to offshore secrecy havens, the reality is that the establishment of anonymous legal structures has been and continues to be a challenge in the U.S. and other global financial centers.

Indeed, the ability of malign actors to utilize anonymous legal structures in the U.S. has been well documented over the past two decades. For example, in October 2000, the U.S. General Accounting Office released a report to the Senate’s Permanent Subcommittee on Investigations and the Committee on Governmental Affairs detailing how foreign individuals and entities were able to form shell corporations in Delaware on behalf of Russian brokers for the purpose of laundering money.<sup>4</sup> Similarly, a study published in October 2011 by the World Bank and the United Nations found that, in the vast majority of major corruption cases, an anonymous company was used to launder illegal funds, and U.S. entities were the most commonly used anonymous companies in those cases.<sup>5</sup> The study further noted how providers of legal, financial, and administrative services in the U.S. generally did not conduct sufficient due diligence when gathering information related to the formation of companies, and that, in many cases, these service providers did not ask for any form of identification from individuals forming corporations.

FATF has also focused on this issue for many years, and, in certain instances, has identified the U.S. as being vulnerable to the use of anonymous corporate structures for illicit activity. Beginning in 2003, FATF established international standards on beneficial ownership, which included a recommendation that governments ensure that reliable information about the true identity of beneficial owners of legal entities and trusts are collected, maintained, and available to government authorities, either through a corporate registry or other means.<sup>6</sup> In 2014, FATF published further guidance on this issue, providing a step-by-step guide on how to access publicly available information on legal persons and arrangements, and establish procedures to facilitate information requests from foreign counterparts.<sup>7</sup>

Then, in October 2019, FATF published a report building on its prior guidance recommending that countries should use one or more of the following mechanisms to ensure that information on the beneficial ownership of a company is obtained and available at a specified location, or can otherwise be determined in a timely manner by law enforcement: the “Registry Approach;” the “Company Approach;” and the “Existing Information

Approach.”<sup>8</sup> The “Registry Approach” requires company registrars to obtain and hold up-to-date information on companies’ beneficial ownership, which should be publicly available along with other basic company information, to facilitate timely access by authorities as well as general public access for cross-checking purposes. The “Company Approach” requires the companies themselves to obtain and hold up-to-date information on their beneficial ownership that must be turned over in a timely manner to authorities upon request, with sanctions for failure to do so. The “Existing Information Approach” involves using existing information collected on the beneficial ownership of corporate entities to identify beneficial ownership. Existing information exists with financial institutions, government agencies, such as tax authorities, and other types of registries, such as for property and vehicles, among others.<sup>9</sup>

In its 2016 review of the U.S. government’s AML regime, FATF noted that the “lack of timely access to ... beneficial ownership information remains one of the most fundamental gaps in the U.S. context.”<sup>10</sup> In March 2020, although FATF upgraded its rating of the United States for compliance with FATF Recommendation 10 related to customer due diligence from “partially compliant” to “largely compliant” as a result of the CDD Rule, FATF found that the U.S.’s AML/counter-terrorist financing (“CFT”) regime remained deficient in a few ways, including by not preventing the formation of anonymous companies.<sup>11</sup> FATF noted how the CTA—then pending legislation—would address this concern.

## U.S. History

FATF’s focus and recommendations on this issue placed increased pressure on the U.S. to establish federal beneficial ownership requirements, which, after a long and difficult road to passage, ultimately resulted in the CTA.

Regulation of the formation of business entities within the U.S. has been a matter of state and territorial law. As a result, states have attempted to maintain their jurisdiction over corporate entity formation, and there has been a reluctance to interfere with the states’ sovereignty on this issue. Indeed, while pressure from both domestic and international parties mounted in the mid-2000s to address the U.S.’s beneficial ownership gap, the National Association of Secretaries of State (“NASS”) asked that the U.S. Congress delay introducing federal legislation, and convened a task force in 2007 to examine state company formation practices.<sup>12</sup> The NASS task force published a report and proposal on the issue in July 2007, which essentially provided that federal regulators, including FinCEN, the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”), the Internal Revenue Service (“IRS”), and others, should develop guidance and outreach programs for state authorities on the disclosure of beneficial ownership information in the company registration process.<sup>13</sup>

Upon receiving the report, the Treasury Department noted that the proposal fell short and did “not fully address the problem of legal entities masking the identity of criminals.”<sup>14</sup> Subsequently, in 2008, Senators Carl Levin, Charles Grassley, and Claire McCaskill introduced the Incorporation Transparency and Law Enforcement Assistance Act (“ITLEA”), which sought to establish beneficial ownership disclosure requirements.<sup>15</sup> Among other measures, the bill would have mandated that states maintain information about the beneficial ownership of a corporation or limited liability company, and would have imposed additional identification requirements for foreign beneficial owners of U.S. entities.<sup>16</sup> Many critics of the legislation argued that regulation of business entity formation within the U.S. was and should remain a state matter.<sup>17</sup>

Similar bipartisan legislation requiring the disclosure of beneficial ownership information was repeatedly introduced in Congress in the years following 2008, but without success. Like the 2008 bill, these follow-on bills envisioned that the states, as opposed to federal regulators, would obtain and maintain beneficial ownership information, thereby allowing states to retain their traditional regulatory authority over the formation of business entities.<sup>18</sup> Eventually, these predecessor bills to the CTA evolved from placing the onus on the states to requiring FinCEN to obtain and maintain beneficial ownership.<sup>19</sup> Still, despite repeated, annual efforts to enact federal legislation on this issue—and support from the Obama and Trump administrations, including draft legislation introduced by Obama’s Treasury Department in 2016<sup>20</sup>—none of the bills were enacted into law and this gap in the U.S.’s AML framework persisted.

In an effort to partially address this gap, FinCEN issued the CDD Rule in 2016, which went into effect in 2018.<sup>21</sup> The CDD Rule imposes regulatory obligations on certain financial institutions (banks, credit unions, mutual funds, brokers or dealers in securities, futures commission merchants, and introducing brokers in commodities) to obtain beneficial ownership information for particular types of legal entity customers.<sup>22</sup> But the CDD Rule does not place obligations on entities to provide beneficial ownership information as part of the entity formation process, and it does not require the establishment of a centralized, corporate registry.<sup>23</sup>

Amid increased pressure both internationally and domestically to rectify this corporate transparency issue, the U.S. Congress held multiple hearings over the last few years that were focused on the ability for individuals in the U.S. to use anonymous shell corporations and other entities to store and transmit the proceeds of illegal activities. During these hearings, witnesses emphasized the need to close this gap.<sup>24</sup> For instance, in May 2019, the U.S. Senate Committee on Banking, Housing and Urban Affairs held a hearing entitled “Combating Illicit Financing by Anonymous Shell Companies Through the Collection of Beneficial Ownership Information,”<sup>25</sup> during which regulators and law enforcement stressed the benefits of having a national database of beneficial ownership information to combat money laundering. In particular, FinCEN Director Kenneth Blanco explained that a lack of clear information identifying the bad “actors behind front companies” has turned shell corporations into vehicles that “hide, support, prolong, [and] foster” criminal enterprises.<sup>26</sup>

These hearings provided the momentum needed for the CTA’s passage. While there was some Republican opposition to the bill based on fears that it would place excessive costs and regulatory burdens on small operating businesses, many Republicans supported the bill and it advanced out of the House Financial Services Committee in June 2019 and passed the full House in October 2019.<sup>27</sup> Parallel legislation was introduced in the Senate. The CTA was eventually added to the 2021 National Defense Authorization Act (“NDAA”) under the scope of AMLA, which passed the Senate in December 2020 with a veto-proof majority and became law on January 1, 2021 by a Senate vote overriding former President Trump’s veto of the NDAA.<sup>28</sup>

## Corporate Transparency Act

The CTA is potentially a very significant development in the U.S. legal framework for combating money laundering, terrorism financing, corruption, and other financial crimes. In short, it requires certain legal entities (“Reporting Companies”) to disclose to FinCEN beneficial ownership information and to update such reported information upon any changes.<sup>29</sup> The Act additionally requires that FinCEN maintain a non-public,

federal registry of this beneficial ownership information. In other words, the CTA implements a version of the “Registry Approach” recommended by FATF.

### Reporting company

A “reporting company” is defined as “a corporation, limited liability company, or other similar entity that is (i) created by the filing of a document with the secretary of state or similar office under the laws of a state or Indian tribe or (ii) formed under the law of a foreign country and registered to do business in the United States by the filing of a document with the secretary of state or similar office under the laws of a state or Indian tribe.”<sup>30</sup> This definition is similar to the definition of “legal entity customer” under the CDD rule.<sup>31</sup>

Like the CDD Rule, the CTA does not appear to cover trusts, other than statutory trusts.<sup>32</sup> This is surprising given FATF’s recommendation that government authorities have access to beneficial ownership information for trusts. Similarly, general partnerships are not typically formed by the filing of a public document with the secretary of state or similar offices, and therefore may not be considered a “reporting company” for purposes of the CTA. Whether FinCEN addresses these gaps in its implementing regulations remains to be seen.

There are also a number of entities expressly excluded from the CTA’s “Reporting Company” definition, and therefore exempt from disclosing beneficial ownership information. They include entities that are already required to disclose beneficial ownership information, such as publicly traded companies and companies subject to significant regulatory oversight from other governmental authorities. They also include entities that are typically not shell companies that pose heightened AML risk, such as operating companies that have at least 20 full-time employees, reported at least \$5 million of gross receipts on previously filed federal income tax returns, and have a physical presence in the United States.<sup>33</sup> Entities owned or controlled by exempted companies are also exempted, though holding companies of exempted companies that do not otherwise meet an exemption definition are covered by the CTA.

There is also a “dormant” exemption for entities that have been in existence for over one year, are not engaged in active business, are not owned by a foreign person, have not within the past year experienced a change in ownership or been involved in an exchange of funds over \$1,000, and do not hold any type of assets.<sup>34</sup>

### Beneficial ownership information

Reporting Companies will be required to disclose specific beneficial ownership information to FinCEN that identifies: (i) each beneficial owner of the applicable reporting company; and (ii) each applicant with respect to that reporting company, by (a) full legal name, (b) date of birth, (c) current, as of the date on which the report is delivered, residential or business street address, and (d) the unique identifying number from an acceptable identification document or a FinCEN identifier issued in accordance with the CTA.<sup>35</sup> An “applicant” is any individual who files an application to form a reporting company or registers or files an application to register a reporting company to do business in the U.S. by filing a document with the secretary of state or similar office under the laws of a state or Indian tribe.<sup>36</sup>

A “beneficial owner” is defined as “an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (i) exercises substantial control over

the entity; or (ii) owns or controls not less than 25 percent of the ownership interests of the entity.”<sup>37</sup> A “beneficial owner” does not include: (i) a minor child (as defined in the state in which the entity is formed), if the information of the parent or guardian of the minor child is reported in accordance with the CTA; (ii) an individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual; (iii) an individual acting solely as an employee of a reporting person and whose control over the economic benefits from such entity is derived solely from the employment status of the person; (iv) an individual whose only interest in a reporting company is through a right of inheritance; or (v) a creditor of a reporting person, unless the creditor meets the requirements of a “beneficial owner” based on substantial control or ownership or control of not less than 25% of the ownership interests.<sup>38</sup>

Substantial control is not defined in the CTA and the CTA does not specify how ownership interests are to be measured, but FinCEN’s implementing regulations may clarify this.

### The corporate registry

Beneficial ownership information in FinCEN’s registry will not be publicly accessible or available. However, the information will be accessible to the government, upon request, solely for national security, law enforcement, and intelligence purposes.<sup>39</sup> State, local, and tribal law enforcement may also gain access to the registry, but only when a court has authorized the law enforcement agency to seek the information in a criminal or civil investigation.<sup>40</sup> Further, federal agencies may obtain beneficial ownership information, by request, for law enforcement in another country for investigation or prosecution purposes, provided such disclosure is required under a treaty or similar agreement with the foreign country or the request limits the other country’s use of the information solely for designated law enforcement purposes.<sup>41</sup> Regulatory agencies may also receive beneficial ownership information, by request.<sup>42</sup> The CTA includes several provisions requiring agencies requesting beneficial ownership to have certain safeguards in place to protect such information, and requiring proof of such safeguards as well as the basis for the request and limitations on the scope of the request and dissemination of provided data within the agency.<sup>43</sup>

Significantly, financial institutions required to collect beneficial ownership information pursuant to the CDD Rule may also obtain access to information in FinCEN’s registry, provided they have consent from the company whose information they are seeking and the information is being sought to facilitate their due diligence requirements.<sup>44</sup> It remains to be seen to what extent financial institutions are given permission by their legal entity customers to access the FinCEN registry and will be able to rely on beneficial ownership information from FinCEN’s registry in order to fulfill their regulatory obligations. As discussed below, after the registry is operational, FinCEN is required to revise the beneficial ownership provisions in the CDD Rule to address any overlap with the CTA requirements. These regulations and perhaps guidance from FinCEN and the Federal functional regulators for financial institutions subject to the CDD Rule should address this reliance issue. Also, there is a question as to what will be the responsibility of a financial institution that has been provided different information by the customer than what has been filed with FinCEN. Notably, the CTA does not require that FinCEN verify the information provided to it, and it remains to be seen whether they will in fact take steps to do so, which may inform the extent to which financial institutions are ultimately able to rely on the information. On April 1, 2021, FinCEN issued an Advance Notice of

Proposed Rulemaking (“ANPRM”) regarding their requirement to establish a registry of beneficial ownership information pursuant to the CTA.<sup>45</sup> This ANPRM requests comments on 48 questions related to the registry requirement, some of which relate to these issues of verification of information submitted to the registry and financial institutions’ potential ability to rely on the information in the registry.

### Penalties

The CTA includes substantial penalties for willfully providing false information or willfully failing to report (or update) beneficial ownership information, including civil and criminal penalties of up to \$500 per day the violation continues, or up to \$10,000 and/or imprisonment for up to two years.<sup>46</sup>

The CTA also includes substantial and greater penalties for knowingly disclosing or knowingly using beneficial ownership information obtained under the Act of \$500 per day the violation continues, or up to \$250,000 and/or imprisonment for up to five years. If the unauthorized disclosure occurs while violating another law or as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period, the maximum penalty is \$500,000 and/or imprisonment for up to 10 years.

### Timing of implementing regulations and reports

It will take some time before these beneficial ownership requirements are in place. Establishing and maintaining the registry is a substantial undertaking for FinCEN and will require new systems and the hiring of many new employees. The CTA will not become effective until the Treasury Department promulgates regulations pursuant to the CTA, which must occur on or before January 1, 2022, one year after the Act’s enactment.<sup>47</sup> The FinCEN Director recently stated in a speech that the regulatory process will begin with an ANPRM. Any reporting company that is formed or registered after the effective date of FinCEN’s implementing regulations will be required to submit beneficial ownership information at the time of formation or registration.<sup>48</sup> However, pre-existing corporations will have two years from the effective date of the implementing regulations to provide FinCEN with beneficial ownership information. Reporting companies will also be required to update information filed with FinCEN within one year of any changes.<sup>49</sup> Thus, it will likely take a number of years before there is a comprehensive registry of beneficial ownership information.

### Relationship to the CDD Rule

As discussed, certain financial institutions are subject to the CDD Rule, which requires those institutions to obtain beneficial ownership information on particular types of customers when a new account is opened.<sup>50</sup> The definition of “beneficial owner” for the CDD Rule mirrors the one in the CTA, as someone “with significant responsibility to control, manage, or direct” the entity customer or who “directly or indirectly . . . owns 25 percent or more of the equity interests” of the customer.<sup>51</sup>

Recognizing the overlap in information required under the CDD Rule and the CTA, Congress instructed FinCEN to “bring the [CDD] rule into conformance with” the CTA, and “reduce any burdens on financial institutions and legal entity customers that are, in light of the [CTA], unnecessary or duplicative.”<sup>52</sup> Despite this instruction, it is clear that financial institutions will retain customer due diligence requirements as part of their AML programs, as the CTA stipulates that any revisions to

the CDD Rule should “account for the access of financial institutions to beneficial ownership information filed by reporting companies under” the CTA “to confirm the beneficial ownership information provided directly to the financial institutions to facilitate the compliance of those financial institutions with AML/CFR, and customer due diligence requirements.”<sup>53</sup> Thus, while there are likely to be revisions to the CDD Rule to account for information collected pursuant to the CTA, financial institutions will still be required to conduct risk-based customer due diligence, at least for customers who are larger and/or present money laundering risks. Indeed, a significant subset of a financial institution’s entity customers will be exempted from the CTA’s reporting requirements, and so, the CTA is unlikely to allow for significant streamlining in due diligence efforts.

### Parallel Initiatives in Other Countries

Like the U.S., the UK, Canada, and other FATF countries have recently implemented or updated beneficial ownership laws to incorporate the international standards set by FATF. In particular, the UK implemented the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (the “2019 Regulations”), which came into effect in January 2020.<sup>54</sup> These 2019 Regulations updated 2017 regulations that had previously introduced a registry of beneficial ownership information for corporate and legal entities, by bringing the beneficial ownership information into the public domain as opposed to being available only to those who showed a “legitimate interest” in the information.<sup>55</sup> The 2019 Regulations also expand the reporting requirements to encompass the owners of express trusts, a category of trusts in the UK.<sup>56</sup>

Likewise, in June 2020, Canada extended beneficial ownership requirements put in place in 2018, pursuant to the Proceeds of Crime Money Laundering and Terrorist Financial Regulations, to additional entities, including notaries, casinos, accountants and accounting firms, real estate brokers or sales representatives, real estate developers, dealers in precious metals and precious stones, and agents of the crown.<sup>57</sup> Per the beneficial ownership requirements put in place in 2018, reporting entities in Canada are required to obtain information that describes the ownership, control, and structure of the entity, including corporations and trusts, when an account is opened, or certain transactions that require the confirmation of the existence of an entity are conducted.<sup>58</sup> The definition of beneficial owner is very similar to the CTA’s definition. But like the UK, Canada’s corporate registry will be publicly available.<sup>59</sup>

The European Union’s 5<sup>th</sup> Anti-Money Laundering Directive required all Member States to set up a centralized and publicly accessible database containing beneficial ownership information for entities.<sup>60</sup> Member States were given until January 10, 2020 to implement that requirement, but Member States remain at various stages of implementation.

Further, some prominent offshore jurisdictions, such as the Cayman Islands, have recently established and updated beneficial ownership requirements, bringing them into compliance with FATF’s recommendations. In August 2020, the Cayman Islands introduced amendments to its AML regulations that, among other things, require identification and verification of beneficial owners of legal persons at a 10% threshold.<sup>61</sup> These amendments updated 2018 laws that implemented a beneficial ownership regime.

In March 2018, the Companies (Amendment) Ordinance 2018 came into effect in Hong Kong, requiring all companies incorporated in Hong Kong to identify and ascertain a person who has significant control over the company and to maintain a “Significant Controllers Register” to be accessible by law enforcement officers upon demand.<sup>62</sup>

Also in 2018, the Brazilian Central Bank updated its AML regulations to require domestic and foreign companies incorporated in Brazil to report their ultimate beneficial owner to Brazil's Receita Federal (the Brazilian Federal Revenue service). The regulation defines an ultimate beneficial owner as a “natural person who ultimately, directly or indirectly possesses, controls or significantly influences the entity” or someone “on whose behalf a transaction is conducted.”<sup>63</sup>

## Conclusion

The CTA is not fully comprehensive. It does not fully satisfy FATF's 2019 recommendation and has a number of potential gaps—in particular, non-statutory trusts may be excluded from the reporting requirements and the corporate registry will not be publicly available. Additionally, it will be a few years before the reporting requirements will apply to most covered entities and until there is a comprehensive corporate registry. Moreover, a significant number of entities are exempted from the CTA and there is always the potential to use an exempted company or an entity owned or controlled by an exempted company for illicit activity. And, of course, for the CTA to be effective for U.S. law enforcement and regulatory purposes, U.S. authorities will likely rely on strong enforcement of the reporting requirements to ensure that the system is not circumvented by companies who provide false or inaccurate beneficial ownership information, or no information at all. It also will be important to U.S. authorities that other countries implement comparable requirements that are strongly enforced. Nevertheless, the CTA is long overdue in the U.S.'s AML framework, based on FATF expectations, and represents a major milestone in the U.S. AML regime.

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14. Sen. Carl Levin (for himself and Sens Coleman and Obama), “Statements on Introduced Bills and Joint Resolutions,” *Congressional Record, Senate Daily Edition*, 110<sup>th</sup> Congress, 2<sup>nd</sup> Session, vol. 154, no. 71, May 1, 2008, pp S3704–S3708.
15. S. 2956, the Incorporation Transparency and Law Enforcement Assistance Act (110<sup>th</sup> Congress).
16. *Id.*
17. *See, e.g.*, [https://www.americanbar.org/content/dam/aba/directories/policy/annual-2008/2008\\_am\\_300.pdf](https://www.americanbar.org/content/dam/aba/directories/policy/annual-2008/2008_am_300.pdf).
18. *See, e.g.*, S. 1483, Incorporation Transparency and Law Enforcement Assistance Act, 112<sup>th</sup> Congress (2011–2012) (requiring states that receive funding under the Homeland Security Act of 2002 to require applicants for forming corporations or limited liability companies to provide and update lists of their beneficial owners and for the state to maintain such beneficial ownership information).
19. *See, e.g.*, S. 1454, the True Incorporation Transparency for Law Enforcement Act, 115<sup>th</sup> Congress (2017).
20. Proposed Legislation, U.S. Dept. of Treas., *FinCEN, Amending the Bank Secrecy Act to Require Reporting and Recordkeeping on Beneficial Ownership of Legal Entities*, available at <https://www.treasury.gov/press-center/press-releases/Documents/20160506%20BO%20Legislation.pdf>.
21. U.S. Dept. of Treas., *Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion* (May 5, 2016), available at <https://www.treasury.gov/press-center/press-releases/pages/jl0451.aspx>.
22. 31 C.F.R. § 1010.230.
23. *Id.*
24. *See, e.g., Legislative Proposals to Counter Terrorism and Illicit Finance: Joint Hearing Before the H. Financial Services Subcomm. on Terrorism and Illicit Finance and Subcomm. On Financial Institutions and Consumer Credit*, 115<sup>th</sup> Cong. (November 29, 2017), available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=400967#Wbcast03222017> (Stefanie Ostfeld, Deputy Head of the U.S. office of Global Witness testified, “As it stands, the law currently makes it far too easy for corrupt officials and other crooks to set up and hide behind the secrecy of anonymously-owned companies in the U.S.”); *Beneficial Ownership: Fighting Illicit International Financial Networks Through Transparency: Hearing Before the S. Comm. of the Judiciary*, 115<sup>th</sup> Cong. (February 6, 2018), available at <https://www.judiciary.senate.gov/meetings/beneficial-ownership-fighting-illicit-international-financial-networks-through-transparency> (Mark Hays, Anti-Money Laundering Campaign Leader for Global Witness, testified stating, “Anonymous companies have helped obscure human trafficking networks, financed the opioid epidemic, facilitated sanctions evasion and have helped underwrite

- terrorist plots – to say nothing of the billions lost to corrupt oil, gas and mining deals each year through anonymous companies in dozens of countries worldwide.”).
25. *Combating Illicit Financing By Anonymous Shell Companies Through the Collection of Beneficial Ownership Information: Hearing Before the S. Comm. On Banking, Housing, and Urban Affairs*, 116<sup>th</sup> Cong. (May 21, 2019), available at <https://www.banking.senate.gov/hearings/combating-illicit-financing-by-anonymous-shell-companies-through-the-collection-of-beneficial-ownership-information>.
  26. *Id.* See also *Combating Illicit Financing By Anonymous Shell Companies Through the Collection of Beneficial Ownership Information: Hearing Before the S. Comm. On Banking, Housing, and Urban Affairs*, 116<sup>th</sup> Cong. (May 21, 2019) (statement of Kenneth A. Blanco, Director, FinCEN), available at <https://www.banking.senate.gov/imo/media/doc/Blanco%20Testimony%205-21-19.pdf>.
  27. See Press Release, U.S. H. Comm. On Financial Services, House Passes Bipartisan Financial Services Bill to Crack Down on Shell Companies and Fight Money Laundering and Terrorist Finance (October 22, 2019), available at <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=404586>.
  28. AMLA, § 6314 (adding 31 U.S.C. § 5323(b)(1)).
  29. AMLA § 6403.
  30. AMLA § 6403(a)(11)(A).
  31. 31 C.F.R. § 1010.230(e) (legal entity customer is “a corporation, limited liability company, or other entity that is created by the filing of a public document with a secretary of state or similar office, a general partnership, and any similar entity formed under the laws of a foreign jurisdiction that opens an account.”).
  32. *Id.*
  33. AMLA § 6403 (a)(11).
  34. AMLA § 6403 (a)(11)(B)(xxiii).
  35. AMLA § 6403 (b)(2).
  36. AMLA § 6403 (a)(2).
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  39. AMLA § 6403 (c)(2)(B).
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  45. FinCEN, Advance Notice of Proposed Rulemaking (April 5, 2021), available at <https://www.federalregister.gov/documents/2021/04/05/2021-06922/beneficial-ownership-information-reporting-requirements>.
  46. AMLA § 6403 (h).
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  49. AMLA § 6403(b)(1)(D).
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  51. 31 C.F.R. § 1010.230 (d).
  52. AMLA § 6403(d)(1).
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  54. UK Money Laundering and Terrorist Financing (Amendment) Regulations 2019, <https://www.legislation.gov.uk/ukxi/2019/1511/contents/made>.
  55. *Id.*
  56. *Id.*
  57. Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations SOR/2002-184 (Can.), available at <https://lois-laws.justice.gc.ca/eng/regulations/SOR-2002-184/index.html>.
  58. *Id.*
  59. *Id.*
  60. Directive (EU) 2018/843 of the European Parliament and of the Council (May 30, 2018), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018L0843>.
  61. <https://www.cogencyglobal.com/blog/new-cayman-islands-beneficial-ownership-requirements-action-needed-by-june-30-2018>.
  62. See Companies Registry, Significant Controllers Register FAQs, available at <https://www.cr.gov.hk/en/legislation/scr/faq.htm#01>.
  63. See Instrucao Normitiva RFB No. 1.634/2016.



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