Analysis **White Collar Crime**

Treasury Urges More AML Monitoring While Shedding Key Transparency Tool, Critics Say

A FinCEN advisory asks banks to detect illicit activity through suspicious activity reports but last year deprived them of beneficial ownership data that could make those investigations more effective.

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Screenshot of FinCEN's website.

The Treasury Department is enlisting banks as part of its immigration enforcement policy by treating certain financial activity associated with undocumented workers and the employers who hire them as a potential anti-money laundering and fraud risk.

A Treasury Department Financial Crimes Enforcement Network advisory released Friday urges banks and other financial institutions to report suspicious activity connected to fraud schemes involving the unlawful employment of unauthorized workers. Banks should file Suspicious Acti

Reports, or SARs, on activity like payroll tax evasion, off-the-books cash payroll schemes and labor brokers and shell companies that facilitate those schemes, the department says.

“Schemes to pay unlawful workers often rely upon access to the U.S. financial system, including U.S. banks,” the Treasury Department said in a statement.
“Unlawfully obtained wages can be leveraged to facilitate the financing of transnational criminal organizations… and their global criminal enterprises.”

Payroll fraud schemes often begin with employers who contract with labor brokers with an established shell company set up to provide off-the-books wages, FinCEN explained. Those shell companies are often used in broader, global money laundering networks.

The advisory is at odds with the Trump administration’s anti-money laundering policy, experts say.

Last year, the administration gutted the main tool the government had to identify the owners of shell companies— the Corporate Transparency Act. In March 2025, FinCEN eliminated its beneficial ownership reporting rule for U.S. companies.

Rather than implement the CTA, the FinCEN is effectively directing banks to find and report perpetrators, said Buchalter partner Jonathan Wilson. However, the SAR reporting regime alone is ineffective at finding illicit activity, Wilson said.

“What would be effective is a screening mechanism, which is exactly what the Corporate Transparency Act was supposed to be,” he said. “The administration wants to be tough on immigration and tough on money laundering, but it just took away its best rule.”

FinCEN’s advisory contradicts years of Treasury analysis about the biggest illicit finance threats to the United States, said Erica Hanichak, deputy director of the Financial Accountability and Corporate Transparency Coalition. A risk assessment released by the department in March does not treat undocumented labor as a major standalone money laundering threat.

“At the same time that FinCEN is adding more on the plate of compliance teams, it is taking away tools that they could use to better assess these risks, particularly through U.S. shell companies used to evade payroll taxes or engage in forced labor trafficking,” Hanichak added in an email. “These decisions have real financial and human costs, and risk diverting efforts away from higher national security threats."

Wilson said the advisory suggests that Treasury will be more robust in auditing Know-Your-Customer onboarding for banks—the process by which banks verify a new client’s identity and financial risk. However, KYC rules do not require banks to monitor the ongoing beneficial ownership of an entity, something that was addressed by the now-defunct beneficial ownership rule.

"In lieu of implementing the Corporate Transparency Act, they say, 'OK, banks, expand your SAR reporting in order to find all the money laundering that's going on out there," Wilson said. "Well, it creates the appearance of doing something serious without actually accomplishing much other than perhaps to increase the regulatory cost."