# Trump administration drive to de-regulate creates 'integrity moment' for financial institutions

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The Trump administration's pause in implementation of the primary U.S. anti-corruption law and the relaxation of other rules has created an "integrity moment" for financial institutions, a career federal law enforcement agent said on Monday during an expert panel at an anti-money laundering conference in Miami.

The "gutting" of the Corporate Transparency Act (CTA) and federal bank regulators' directive to stop examining for reputational risk represent "unprecedented" anti-money laundering (AML) change, said another panelist, Alcides Avila, founding partner of Avila Law in Coral Gables, Florida.

The pace of change, which has been hectic since President Donald Trump was inaugurated on January 20, has been "quite startling" for bank compliance professionals, Avila added.

"The amount of change that we have had in the last two months in the AML world is unprecedented, it's astounding," he said. "There is a tremendous level of uncertainty (and) we need to navigate through it."

Regulatory Intelligence attended the event on Monday, hosted by the Financial & International Business Association, online.

**Question of integrity**

With the enforcement of anti-financial crime laws and regulations in question, for compliance professionals, doing the right thing "really comes down to integrity" and the reality that enforcement may return in force when the next U.S. president takes office, said John Tobon, a veteran special agent who spent decades combating financial crime.

"Nobody's watching (at the moment) and that's troublesome. It doesn't mean that no one will be watching forever, because all of these laws remain on the books," said Tobon, who in January retired from his post as assistant director of Homeland Security Investigations' Countering Transnational Organized Crime Division.

"This is now an integrity moment for the industry because (government agencies) focused on fighting financial crime are losing resources … and so it's the integrity that becomes important."

**Significant anti-financial crime laws undermined**

The Trump administration's decision to suspend enforcement of the Foreign Corrupt Practices Act (FCPA), which was signed into law by President Jimmy Carter in December 1977 and had been vigorously enforced in recent years, "caught a lot of people by surprise," Avila said. The FCPA bars U.S. companies from paying bribes overseas to win business.

"It's hard to understand what that exactly means … for financial institutions," he said.

Another change that "has everyone baffled" is the Trump administration's varied positions and statements — as well as lawsuits filed across the country — related to the CTA, which was part of the Anti-Money Laundering Act of 2020, Avila said.

As reported, all of the varied and rapid CTA developments on Friday culminated in an interim final rule (IFR) issued by Treasury's Financial Crimes Enforcement Network (FinCEN) that effectively undid the CTA's goal of preventing criminals from hiding behind U.S. shell companies by exempting U.S. entities and persons from beneficial ownership reporting requirements.

"The CTA was born, died, was re-lived, died again, was brought over a number of times over the last year and had a lot of institutions very confused as to what to do," Avila said.

The only "reporting companies" that remain under FinCEN's IFR are foreign companies registered to do business in the United States.

"The reality is that CTA has been essentially gutted," Avila told the audience of bankers, lawyers and others. "This means there is going to be very little to report and for banks, (the CTA now) doesn't really affect you at all."

The recent announcement by the Office of the Comptroller of the Currency that it will no longer be examining banks for reputational risk has also created questions for financial institutions.

"Reputational risk has always been very important for financial institutions," Avila said. "And I will tell you that the institutions I have spoken with indicated to me that they are going to continue to monitor for reputational risk, they're going to continue to enforce it within their own policies and procedures even though the examiners will not be looking for it."

**Beware 'knock on door' when new administration takes reins**

The confusion that may lead to unwise decisions to do risky business without controls could come back to haunt financial institutions, Tobon said. He added that decreased scrutiny may offer banks an opportunity to create bespoke solutions to managing risk that they might otherwise be unable to implement.

"I think this is going to be a very trying time, because the uncertainty that all of you are feeling in terms of the regulations, the back and forth, is the same type of uncertainty that that government employees are feeling," he said.

He added that financial institutions weighing whether to roll back compliance measures to increase profits have to ask themselves, "Can I live with that?"

"Am I going to be good with those profits, and am I going to be up at night in a little bit over three and a half years when I hear that knock on the door [from regulators or law enforcement under a new administration]," Tobon said.

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