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Panama Papers Go Online As Obama Pushes Global Tax Transparency

The biggest news is the [searchable database](#) of the Panama Papers that is now accessible. We'll come back to that, but the timing is good. President Obama and his Treasury Department are pushing the Panama Papers, taking executive action on new transparency and tax evasion rules. But in view of limits on executive action, the Obama administration is also asking Congress for help in passing legislation, and asking the Senate to approve a number of pending tax treaties. Treasury Secretary Jack Lew has written this [letter](#) asking for legislative help.

The multi-pronged approach comes at an interesting time, as worldwide attention is still focused on the Panama Papers, still said to be the biggest leak of financial data in history. From a law firm in Panama, the data went to Germany's *Suddeutsche Zeitung*, then to the [International Consortium of Investigative Journalists](#). The 11 million files are said to implicate Russian president Vladimir Putin's inner circle, and many others.



Construction workers protest outside the Mossack Fonseca law firm, demanding the government punish anyone involved in financial crimes in Panama City, Wednesday, April 13, 2016. The Panama Papers whistleblower has finally spoken out, slamming global corruption. (AP Photo/Arnulfo Franco)

You can see for yourself. The massive [searchable database](#) went on-line today at [The Panama Papers · ICIJ](#). The massive database is expected to detail ties between some 368,000 people and some 300,000 [offshore entities](#). Meanwhile, President Obama's actions are targeting financial transparency and combating the misuse—and anonymity—of companies. The several new rules are meant to identify companies that open accounts at financial institutions, earmark company formations, and flag when company ownership is transferred.

Not surprisingly, the rules would also kick in on evidence that a foreign-owned U.S. company seeks to evade taxes. Financial institutions such as banks, securities brokers or dealers, mutual funds, etc. are expected to collect and verify the personal information of the ultimate beneficial owners who open and administer company accounts. Reporting is being beefed up to expand law enforcement efforts too.

The points on which The Treasury Secretary has urged Congress to act include passing Beneficial Ownership legislation, providing full reciprocity between U.S. and foreign governments on Foreign Account Tax Compliance Act (FATCA) matters. The Obama administration is also asking the Senate to approve several bilateral tax treaties currently pending in the Senate.

The proposed beneficial ownership legislation that the Obama administration wants Congress to pass would require companies to know and report adequate and accurate beneficial ownership information at the time of a company's creation. Companies formed within the United States would be required to file beneficial ownership information with the Treasury Department, and face penalties for failure to comply.

The proposed legislation would also allow the Treasury Department to require all cash real estate purchase data from title companies, since all-cash purchases can be used to hide assets. Such data is already being required and collected on a temporary basis in certain localities in the U.S., including Manhattan and Miami. But the law would open the floodgates.

Another executive action from the Obama administration concerns foreign-owned disregarded entities. Foreign-owned single member LLCs have had no obligation to report information to the IRS or to get a tax identification number. These disregarded entities can be used to shield the foreign owners of non-U.S. assets or non-U.S. bank accounts.

The new rules require them to obtain U.S. employer identification numbers from the IRS. New regulations will also allow the IRS to determine whether there is any tax liability, and if so, how much, and to share information with other tax authorities. This will strengthen the IRS's ability to prevent the use of these entities for tax avoidance purposes, and will build on the success of other efforts to curb the use of foreign entities and accounts to evade U.S. tax.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.