

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Committee on Small Business

FROM: Committee Majority Staff

DATE: April 26, 2024

RE: Full Committee Hearing Titled: “Under the Microscope: Examining FinCEN’s Implementation of the Corporate Transparency Act”

On **Tuesday, April 30, 2024, at 10:00 AM ET**, the Committee on Small Business will hold a hearing titled “Under the Microscope: Examining FinCEN’s Implementation of the Corporate Transparency Act.” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the impact of the Financial Crimes Enforcement Network’s (FinCEN) Beneficial Ownership Information (BOI) rule on small businesses.

I. Witnesses

- **Ms. Carol Roth**, Small Business Expert and Owner
- **Mr. Roger Harris**, President, Padget Business Services
- **Mr. Tim Opsitnick**, Executive Vice President and General Counsel, Technology Concepts & Design, Inc. (TCDI), testifying on behalf of NSBA
- **Mr. Gary Kalman**, Executive Director, Transparency International U.S.

II. Background

Of the many challenges facing the United States, crime and criminal enterprise remain a major concern. To that end, in 2019, Congress passed the Corporate Transparency Act (CTA), which required FinCEN to draft a rule requiring businesses to report their beneficial owners.¹ The

¹ Beneficial Ownership Information Access and Safeguards, 88 Fed. Reg. 88732, 88763 (Dec. 22, 2023) (codified at 31 C.F.R. 1010).

purpose of this act was to empower FinCEN and law enforcement agencies to detect criminal activity hiding behind an LLC or shell company.²

Taking effect in January 2024, the BOI rule requires certain businesses with 20 or fewer employees to disclose beneficial owners' information to FinCEN. The government defines beneficial owners as those who have at least a 25 percent stake in a company or those who have substantial control—directly or indirectly— over a company's operations.³ The information will then be put in a database for law enforcement and other financial institutions to access.⁴ However, FinCEN's implementation of the BOI rule has been disastrously unclear.

As about half of small business owners have no idea what the CTA is, and another quarter are unsure if they're required to report, they are looking to financial experts for assistance.⁵ However, the accounting industry, whose members would be tasked with administering most of the reporting to FinCEN, has reported that while they are becoming familiar with the rule, they have very little idea of how to comply.⁶ Given the uncertainty, numerous legal and accounting service providers have indicated that they will not offer compliance to clients in complying with this rule.

Non-compliance with this rule will result in \$500 daily fines, up to a total of \$250,000, and 2 years imprisonment.⁷ The BOI rule needs to strike a balance between providing law enforcement with the necessary data while also not burdening small businesses unduly.

Many small businesses are already experiencing challenges relating to inflation, high interest rates, and crime. Adding additional cumbersome reporting requirements may challenge the operations of small firms, halting their growth and making expansion more challenging. This rule is expected to cost the industry approximately \$2.2 billion to comply with and requires 4.5 million manhours.⁸ This is in addition to the added \$180 billion worth of regulatory costs the Biden Administration has heaped upon businesses since 2023.⁹

III. Conclusion

The House Committee on Small Business will continue to ensure that agencies understand the impact of their regulations on American small businesses. The federal government should be working to make the dream of owning and running a business more affordable for Americans,

² Beneficial Ownership Information Access and Safeguards, 88 Fed. Reg. 88732, 88763 (Dec. 22, 2023) (codified at 31 C.F.R. 1010).

³ Melissa Angel, *Complying With the Corporate Transparency Act Could Cost Thousands. Many Small Businesses Don't Even Know What It Is*, INC.COM (Dec. 15, 2023).

⁴ Beneficial Ownership Information Access and Safeguards, 88 Fed. Reg. 88732, 88763 (Dec. 22, 2023) (codified at 31 C.F.R. 1010).

⁵ *The Corporate Transparency Act: What it Means for Small Businesses*, NATIONAL SMALL BUSINESS ASS'N (Nov. 9, 2023).

⁶ Letter from Susan S. Coffey, Chief Executive Officer, AICPA, to Patrick McHenry, Chairman, U.S. House Committee on Financial Services (Feb. 13, 2023).

⁷ Beneficial Ownership Information Access and Safeguards, 88 Fed. Reg. 88732, 88763 (Dec. 22, 2023) (codified at 31 C.F.R. 1010).

⁸ Regulation Rodeo, American Action Forum (last visited Apr. 16, 2024) *available at* [regrodeo.com](https://www.regrodeo.com).

⁹ *Id.*

not less. Our interest in stopping criminal activity should not stand in the way of law-abiding small business owners.