



FACTCOALITION

Financial Accountability & Corporate Transparency

April 30, 2024

The Honorable Roger Williams  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nydia Velázquez  
Ranking Member  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

**RE: Hearing titled, “Under the Microscope: Examining FinCEN’s Implementation of the Corporate Transparency Act”**

Dear Chairman Williams and Ranking Member Velázquez,

On behalf of the Financial Accountability and Corporate Transparency (FACT) Coalition, we appreciate the opportunity to comment on your hearing examining the implementation of the Corporate Transparency Act. The FACT Coalition is a [non-partisan alliance](#) of more than 100 state, national, and international organizations promoting policies to combat the harmful impacts of corrupt financial practices. We have been a leading champion of beneficial ownership reform in the United States for more than 14 years.

We are writing to voice the importance of the Corporate Transparency Act as a tool to protect small businesses, defend U.S. national security, and uphold the public safety of average Americans. We also encourage Congress to adequately fund FinCEN to help small businesses comply with the law.

**Anonymous U.S. Companies Harm Americans**

Illicit shell company networks are an increasingly important tool for drug traffickers, fraudsters, and corrupt officials to hide and move ill-gotten gains across states and continents. The United States is a prime destination and through-point for these funds, in part thanks to the opacity around U.S. corporate formation. [According](#) to Treasury Secretary Janet Yellen, “There is a good case that, right now, the best place to hide and launder ill-gotten gains is actually the United States.”

There is clear [evidence](#) that anonymous companies present harms to honest small businesses: enabling fraud, fueling fraud in competition for contracts, and empowering patent trolls to harass small business owners. These crimes have a negative impact on intra- and interstate commerce.

These companies also cause tangible harms to [American public safety](#) and [U.S. national security](#): fostering cross-continental fentanyl trafficking networks and facilitating egregious evasion of U.S. sanctions on Iran, Russia, and other U.S. adversaries. Earlier this month, FACT [testified](#) in the Senate Caucus on International Narcotics Control on these continued risks – especially relating to fentanyl and other narcotics trafficking. There is overwhelming evidence that curbing the abuse of anonymous shell companies would improve the investigative abilities of law enforcement and national security officials, and help make our communities safer.

### **The Bipartisan CTA Has Diverse Support**

Prior to the passage of the Corporate Transparency Act, all 50 states [required](#) more information to get a library card than they did to form an entity. The CTA closes this gaping loophole by requiring certain entities formed or registered in the U.S. to name their true owner to a secure directory housed at Treasury’s Financial Crimes Enforcement Network.

The bipartisan Corporate Transparency is the product of 20 years of congressional deliberation on the scourge of anonymous shell companies. Congress collected evidence and proposed legislative solutions based on inputs from law enforcement and national security officials, the financial services industry, business groups large and small, and the anti-corruption community, among others.

In its final form, the Act had support from [dozens of stakeholders](#), as diverse as Dow Chemical and Friends of the Earth; U.S. Chamber of Commerce and Public Citizen; Bank Policy Institute and Americans for Financial Reform, all of whom saw this as a needed step to address risks presented by anonymous shell companies. State-level law enforcement associations – including [42 states Attorneys General](#), the [Fraternal Order of Police](#), [National District Attorneys Association](#) – saw the limitations of state-level solutions and called for federal action on this trans-state and transnational issue.

### **The Act Is Constitutional**

FACT supports the Government’s [appeal](#) of a federal district court decision in the case *NSBU v. Yellen*, which found that the CTA is unconstitutional on the grounds that it exceeds congressional powers. As FACT argued in a recent [Bloomberg Law op-ed](#), the CTA clearly serves a national security, tax, and interstate commerce function, putting it squarely within congressional purview.

Other experts agree: amicus curiae briefs were submitted to the U.S. Court of Appeals for the 11th Circuit in favor of the government’s position, from [national security experts](#), [tax law experts](#), and U.S. [Members of Congress](#). We expect the circuit court to rule favorably on the CTA.

### **The Act Appropriately Balances Benefits with Compliance Costs**

Helping investigators understand the true owners of a U.S. entity is an unparalleled tool in the fight against money laundering. At the same time, the cost of compliance for most honest businesses is quite low:

1. Filing is free, keeping the cost of compliance relatively low for filers. FinCEN estimates that average costs for businesses with simple ownership will be about [\\$85 in the first year](#), and lower (or non-existent, if there are no changes) in following years. (In comparison, the state formation fee for creating an LLC can cost between \$40 and \$500, depending on the state.)
2. According to the Small Business Administration, most businesses in the United States (approximately [82 percent](#)) are non-employer firms, meaning that they should have no trouble understanding who owns them.
3. Of [1 million](#) businesses that have already filed with FinCEN, [anecdotal evidence](#) suggests that average filings take about 20 minutes. Moreover, these are one-time filings unless businesses have information they need to update.
4. A [February poll](#) by Small Business Majority shows that 78 percent of small businesses who had filed found the filing easy; only 6 percent said it was very difficult.
5. Likewise, the law reasonably approaches penalties for noncompliance. A small business owner can only be punished if they know their obligations and “willfully” refuse to file or falsely file to face legal repercussions.

For most honest small businesses, these filings will be simple and affordable. This means that – after nearly twenty years of deliberation – Congress struck the right balance when passing this bipartisan law to keep our country and our region safe, while also keeping costs to business low.

### **Additional FinCEN Funding Presents Greatest Benefit to Small Businesses**

We urge Congress to supply FinCEN with the full presidential budget request of \$216 million. As FACT [testified](#) this month in the Senate, Congress must provide additional resources to FinCEN as a means to help small businesses comply with the law. Additional resources for FinCEN would allow the bureau to:

1. Continue outreach, building relationships with local governments and businesses associations to get the word out about compliance requirements; and
2. Verify beneficial ownership information as it is submitted to the database, which will minimize the costs of compliance for businesses by reducing adverse impacts of human error and by simplifying filing.

Thank you for the opportunity to comment. If you have questions, you can contact Erica Hanichak ([ehanichak@thefactcoalition.org](mailto:ehanichak@thefactcoalition.org)).