

United States House of Representatives
Committee on Small Business

Hearing on
“Under the Microscope: Examining FinCEN’s Implementation of the Corporate
Transparency Act”

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Chairman Williams, Ranking Member Velázquez, and Members of the Committee,

Thank you for inviting me to testify today.

On behalf of Transparency International U.S. (TI U.S.), I appreciate the opportunity to discuss progress toward implementation of the Corporate Transparency Act (CTA), a foundational reform to combat transnational crime and corruption.

TI U.S. is part of the world's largest and oldest coalition dedicated to fighting corruption. In collaboration with national chapters in more than 100 countries, we work with governments, businesses, and citizens to stop the abuse of entrusted power. Through a combination of research, advocacy, and policy, we engage with stakeholders to increase public understanding of corruption and hold institutions and individuals accountable.¹

The Corporate Transparency Act (CTA)

The CTA is a historic anti-money laundering measure that Congress correctly understood would strengthen the ability of law enforcement—and the U.S. national security and intelligence communities—to curtail the use of anonymous entities to commit crimes. It is also a major step toward bringing the U.S. in line with the international community. For instance, the Financial Action Task Force (“FATF”) encourages the establishment of a beneficial ownership registry like the one created by the CTA in its recommendations for fighting money laundering and terrorist financing.² Writ large, dozens of countries, including the United Kingdom, have developed these registries and have seen little to no impact on the establishment and flourishing of small businesses in their jurisdictions.

Moreover, the CTA's reporting requirements are neither unusual nor unprecedented for everyday Americans. Most states, for example, collect more information when granting public library cards than is required under the CTA.³ And, as detailed below, the CTA benefits small business owners by, among other things, protecting them from unfair and fraudulent competition, while imposing minimal compliance costs.

The law passed with broad bipartisan in Congress and saw strong, vocal support from the both the Trump and Biden administrations.

Harms caused by abuse of anonymous shell companies

In the leadup to passage of the CTA, members of Congress heard a litany of examples, through numerous hearings and media exposés, of how anonymous corporate structures were being used to facilitate the flow of dirty money and enrich and enable threats to our national security. For example, in a Global Witness report called *Hidden Menace*⁴, researchers found numerous incidents in which the Department of Defense had contracted with anonymous companies that, at best, defrauded the U.S. military and, at

¹ Transparency International U.S., Website, <https://us.transparency.org/>

² Financial Action Task Force, “The FATF Recommendations”, November 2023, <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html>

³ Global Financial Integrity, “The Library Card Project”, March 21, 2019, <https://gfintegrity.org/report/the-library-card-project/>

⁴ Global Witness, “Hidden Menace”, July 12, 2016, <https://www.globalwitness.org/en/reports/hidden-menace/>

worst, endangered the lives of troops serving overseas. In one case, the Pentagon contracted with a U.S. company to supply services to troops in Afghanistan. The company was secretly owned by interests associated with the Taliban. To be perfectly clear: The United States Government was literally supplying funds that could be used to purchase guns and other weapons aimed at our troops. These and other similar reports are why nearly 100 civilian and former military national security experts ultimately signed a letter to Congress calling for legislation that would require the collection of beneficial ownership information.⁵

Alarminglly, these types of individual stories are not isolated incidents but are part of a **larger collection of threats to the safety and security of our communities and our nation:**

- According to a study by the Stolen Asset Recovery Initiative, a joint effort of the World Bank and the United Nations Office on Drugs and Crime, anonymous companies were used to hide the proceeds of corruption in 70 percent of cases of “grand corruption” that were reviewed, with entities formed in the United States being the most common.⁶
- According to a study by the anti-human trafficking group Polaris, anonymous companies play an outsized role in hiding the identities of the criminals behind human trafficking enterprises. For example, the study found that of the more than 6,000 illicit massage businesses for which Polaris found incorporation records, only 28 percent of these criminal enterprises had an actual person listed on the business registration records, and only 21 percent of the 6,000 business records found specifically named the owner. The registrations were all compliant with the law at the time of filing.⁷
- In the 2018 National Money Laundering Risk Assessment, the Treasury Department wrote that “The nature of synthetic drug trafficking, and associated financial flows, has changed with the rise of China as a supplier of fentanyl and its analogues and precursors,” noting that the U.S. Drug Enforcement Agency has determined there is an Asian version of the Black-Market Peso Exchange, “with goods being exported to China by U.S. front companies as payment for drugs.” That same year, the Justice Department indicted two Chinese nationals connected to the Zheng drug trafficking organization, which manufactured and shipped deadly fentanyl analogues and 250 other drugs to some 37 U.S. states, with drugs sold by the group directly tied to the fatal overdoses of two people in Ohio.⁸

⁵ Letter from 100+ National Security Experts, July 20, 2020, <https://thefactcoalition.org/100-national-security-and-foreign-policy-experts-back-action-on-anonymous-shell-companies/>

⁶ Stolen Asset Recovery Initiative, “The Puppet Masters”, October 24, 2011, <https://star.worldbank.org/publications/puppet-masters>

⁷ Polaris Project, “Hidden in Plain Sight”, April 19, 2018, <https://polarisproject.org/press-releases/corporate-secrecy-fuels-human-trafficking-in-united-states/>

⁸ U.S. Department of Justice, “Two Chinese Nationals Charged with Operating Global Opioid and Drug Manufacturing Conspiracy Resulting in Deaths,” Aug. 22, 2018, <https://www.justice.gov/opa/pr/two-chinese-nationals-charged-operating-global-opioid-and-drug-manufacturing-conspiracy>; *see also* U.S. Department of Justice, “Fujing Zheng Indictment,” Aug. 17, 2018, <https://www.justice.gov/opa/press-release/file/1089101/download>

Congress also heard evidence demonstrating how **anonymous companies are used to undermine our markets and disrupt legitimate business**. For instance, there were numerous examples in which anonymous companies disrupted supply chains, fraudulently competed for contracts, and engaged in illicit commerce through the selling of counterfeit and pirated goods. For example, David Luna, a former U.S. national security official and then-chair of the Anti-Illicit Trade Committee of the United States Council for International Business, published a report examining the role of anonymous companies in facilitating a growing global illegal economy valued at between \$500 billion and \$3 trillion.⁹ Mr. Luna found:

- Anonymous companies assisted in selling knock-off parts to the Pentagon that have cost the U.S. military tens of millions of dollars.
- Anonymous companies were used to import and sell counterfeit medicines from India and China worth hundreds of millions of dollars to American consumers. These counterfeits included fake versions of Arimidex, a breast cancer treatment; Lipitor, the cholesterol drug; Diovan, for high blood pressure; and other medications such as illicit OxyContin, Percocet, Ritalin, Xanax, Valium, and Ambien.
- Anonymous companies helped an organized criminal network sell counterfeit cellphones and cellphone accessories on Amazon and eBay. They also misrepresented goods worth millions of dollars as new and genuine Apple and Samsung products.
- Anonymous companies were leveraged to help criminals sell millions of dollars' worth of counterfeit computer anti-virus software.

The harmful impact of anonymous companies on commerce has long been recognized by the business community. For example, a 2016 Ernst and Young study found that 91 percent of senior business executives believed that collecting beneficial ownership information is important.¹⁰

And **since the passage of the CTA, the evidence of harm continues to build**. For example, in 2021, 10 Iranian nationals were charged by the Justice Department with “running a nearly 20-year-long scheme to evade U.S. sanctions on the Government of Iran by disguising more than \$300 million worth of transactions...through front companies in California” and other jurisdictions, with the scheme relying on “more than 70 front companies.”¹¹

⁹ David Luna, “Anonymous Companies Help Finance Illicit Commerce and Harm American Businesses and Citizens”, May 2019, <https://thefactcoalition.org/wp-content/uploads/2019/05/Report-Anonymous-Companies-Help-Finance-Illicit-Commerce-and-Harm-American-Businesses-and-Citizens-FINAL.pdf>

¹⁰ Ernst & Young, “EY – Global Fraud Survey 2016”, April 18, 2016, <https://go.ey.com/2vGBTLN>

¹¹ U.S. Department of Justice, “Iranian Nationals Charged with Conspiring to Evade U.S. Sanctions on Iran by Disguising \$300 Million in Transactions Over Two Decades,” Mar. 19, 2021, <https://www.justice.gov/opa/pr/iranian-nationals-charged-conspiring-evade-us-sanctions-iran-disguising-300-million>.

In addition, a 2023 report from CBS News discussing the difficulties of finding and freezing funds of sanctioned Russian oligarchs found that:

[H]igh-end clients seldom buy luxury goods in their own name. Instead, when purchasing a yacht, for example, the ultrarich often use an intricate web of shell companies. The company listed on the purchasing document is typically owned by a separate company in another country. Those two companies, in turn, might be owned by another company in a third country. These intermediary corporations rarely list the true owner's name.¹²

Additional reporting found that a company in Delaware reportedly owns a \$15 million mansion in Washington, D.C., is linked to one of Vladimir Putin's closest allies. The oligarch also reportedly owns a \$14 million townhouse in New York City through a separate Delaware company.¹³

Additional **evidence explains how drug cartels and other criminals rely on anonymous companies to fuel their operations**. Consider the following examples from a recent factsheet¹⁴ produced by TI U.S.:

- The infamous Sinaloa Cartel relied on a criminal organization to organize the pickup of bulk cash proceeds from the sales of heroin and methamphetamine in Illinois, Nebraska, Massachusetts, New York, Maryland, North Carolina, Pennsylvania, and elsewhere in the United States before laundering the funds through a network of shell companies incorporated in Wyoming.
- After the death of an individual in Idaho from elevated levels of prescription opioids and fentanyl, law enforcement agents began investigating a drug trafficking organization that operated an online marketplace for a variety of controlled substances, including the fentanyl analogue p-fluoroisobutyryl fentanyl, oxycodone, hydrocodone, and the synthetic opioid U47700. It was discovered that the organization used wire transfers between U.S. and Dominican Republic-based shell company bank accounts to send millions of dollars' worth of drug proceeds from the United States to the Dominican Republic.
- A California accountant pled guilty to using shell companies to launder money on behalf of the international drug trafficking organization "ODOG," which operates in the United States, Central and South America, and Australia. Between 2012-2016, ODOG trafficked thousands of kilograms of heroin, methamphetamine, MDMA, cocaine, and other drugs in wholesale and retail quantities.
- A New York man plead guilty to helping to launder over \$650 million worth of illegal narcotics proceeds through banks accounts associated with shell companies in New York, New Jersey, Pennsylvania, and elsewhere before wiring funds back to entities in China.

¹² CBS News, "How Prosecutors Seize Sanctioned Russian Assets", September 3, 2023, <https://www.cbsnews.com/news/russian-asset-seizure-60-minutes-2023-09-03/>

¹³International Consortium of Investigative Journalists, "Are oligarchs hiding money in US real estate? Ownership information is a missing link, research says," Apr. 1, 2022, <https://www.icij.org/investigations/panama-papers/areoligarchs-hiding-money-in-us-real-estate-ownership-information-is-a-missing-linkresearch-says/>.

¹⁴ Transparency International U.S., "Stop Those Who Enable the Trafficking of Fentanyl and Other Drugs Into the United States", June 2023, <https://us.transparency.org/resource/enablers-and-drug-trafficking-factsheet/>

- A drug trafficking organization operated a \$200-million prescription drug diversion scheme across California, Minnesota, Ohio, and Puerto Rico by forming shell companies to open bank accounts in order to receive and distribute the proceeds of their transactions.

Benefits to and support from small businesses

Anonymous companies have been used by rogue employees to embezzle money, fraudulent vendors to undermine supply chains, and bogus competitors to steal contracts. With fewer resources than larger enterprises, small businesses are often easy targets for scammers and criminals. For example:

- At least seven individuals were indicted in a scheme that allegedly involved over 80 applications seeking \$30 million in Paycheck Protection Program loans. Applicants fraudulently obtained at least \$16 million, per the Justice Department. According to court records, Amir Aqeel and several others in the Houston area allegedly created fake tax and payroll documentation in exchange for large kickbacks for referring others into the scheme that involved 12 corporate entities. An indictment includes text and email messages involving creating tax records for some of the companies. Aqeel and others in the scheme allegedly used loan funds to pay individuals they claimed were employees but were actually “fake employees,” according to a court filing. In email and text exchanges, defendants acknowledged that a number of the companies did no legitimate business, disqualifying them from receiving the loan.¹⁵
- A former construction company executive in Pennsylvania used anonymous companies to take advantage of a program for small businesses that he was not eligible for. Hiding behind a Connecticut-based company for 15 years, he won contracts worth \$136 million in Pennsylvania alone.¹⁶
- An Illinois man created an anonymous company that appeared to be a subcontractor to his employer, a small air conditioning repair business. He used it to submit fraudulent invoices to both his own employer and its customers despite providing no service to either party. The employee stole approximately \$350,000 before getting caught.¹⁷
- Patent trolls (predatory companies that obtain patent rights to profit by licensing or litigation, rather than by producing their own goods or services) have consistently relied on anonymous companies to target small businesses. With few legal resources, some business owners find themselves paying unnecessary licensing fees or spending time and money to defend themselves against bogus infringement claims.¹⁸
- A Maryland woman won government contracts by submitting extremely low bids, undercutting honest businesses, and then subcontracted the work before disappearing without paying the

¹⁵ Project on Government Oversight, “Red Flags: The First Year of Covid-19 Loan Fraud Cases”, April 15, 2021, <https://www.pogo.org/investigations/red-flags-the-first-year-of-covid-19-loan-fraud-cases>

¹⁶ FACT Coalition, “FACT Sheet: Small Businesses are Harmed by Anonymous Companies”, September 19, 2019, https://thefactcoalition.org/fact-sheet-small-businesses-are-harmed-by-anonymous-companies/#_ftn6

¹⁷ Ibid.

¹⁸ Ibid.

subcontractors. Money and contracts were laundered through a series of 15 shell companies in Maryland, Delaware, Georgia, Nevada, North Carolina, and Tennessee.¹⁹

According to the U.S. Small Business Administration, approximately 78 percent of all businesses in the U.S. are non-employer firms, meaning that there is only one person in the enterprise.²⁰ True small business owners will not have trouble identifying the owner of their business.

Given the potential for harm, it is not surprising that in multiple polls small business owners felt that the benefits of the CTA's reporting requirements outweighed the costs. For example:

- A June 2019 poll conducted by Morning Consult for the Bank Policy Institute showed that 75 percent of small business owners supported beneficial ownership disclosure requirements. Support was consistent across party lines.²¹
- An April 2018 poll of small business owners conducted by Chesapeake Beach Consulting for Small Business Majority showed that 76 percent of small business owners supported beneficial ownership disclosure requirements.²²

Broad bipartisan support for the CTA

Support for ending the incorporation of anonymous companies has expanded beyond the core anticorruption community to now include national security experts, cops, sheriffs, local prosecutors, Republican and Democratic state Attorneys General, federal prosecutors, human rights advocates, anti-human trafficking groups, faith-based networks, international development organizations, a diverse set of business trade associations from the U.S. Chamber of Commerce to Small Business Majority, individual large and small businesses, large and small banks, credit unions, real estate professionals, insurance companies, over 125 non-governmental organizations, and scholars at both conservative and liberal leaning think tanks, among many, many others.²³

In particular, the Trump Administration issued a supportive Statement of Administrative Policy²⁴ that included the following:

[This legislation will] help prevent malign actors from leveraging anonymity to exploit these entities for criminal gain. It would also assist law enforcement in detecting and preventing illicit

¹⁹ Ibid.

²⁰ Ibid.

²¹ Bank Policy Institute, "Small Business Owners Say Yes to Ending Anonymous Shell Companies" Poll, June 2019, <https://bpi.com/wp-content/uploads/2019/06/Ending-Anonymous-Shell-Companies-Survey-Infographic.pdf>

²² Small Business Majority, "Small Business Owners Support Legislation Requiring Transparency in Business Formation", April 4, 2018, <https://smallbusinessmajority.org/our-research/government-accountability/small-business-owners-support-legislation-requiring-transparency-business-formation>

²³ FACT Coalition, "Endorsements for Beneficial Ownership Transparency", October 19, 2020, <https://thefactcoalition.org/endorsements-beneficial-ownership-transparency/>

²⁴ Executive Office of the President, "Statement of Administrative Policy: H.R. 2513 – Corporate Transparency Act of 2019, as amended by Manager's Amendment", October 22, 2019, https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/10/SAP_HR-2513.pdf

activity such as terrorist financing and money laundering. Additionally, this bill would substantially update the Bank Secrecy Act (BSA) for the first time since 2001. These reforms will modernize financial institutions' compliance with anti-money laundering regulations, counter the financing of terrorism requirements, and close loopholes in existing law.

And:

For these reasons, the Administration believes this legislation represents important progress in strengthening national security, supporting law enforcement, and clarifying regulatory requirements.

Echoing that support, the Biden Administration has prioritized the effective implementation of the CTA in the National Security Council's 2021 U.S. Strategy on Countering Corruption²⁵ saying, "We will therefore address deficiencies in the U.S. anti-money laundering regime...including by effectively collecting beneficial ownership information on those who control anonymous shell companies."

Moreover, the Treasury Department estimates that illicit funds equaling at least 2 percent of U.S. GDP flow through the U.S. financial system every year. That's an enormous sum considering the size of the U.S. economy. This estimate is likely one reason that both former Treasury Secretary Steve Mnuchin and current Treasury Secretary Janey Yellen have been vocal supporters of the law.

Rollout and ease of compliance with the CTA

As noted above, the vast majority of U.S. businesses are small entities with simple ownership structures. The Financial Crimes Enforcement Network (FinCEN), the Treasury bureau that will effectively implement the CTA, estimates that these entities will spend approximately \$85 to prepare and submit an initial report to FinCEN. As the bureau points out, such costs are "comparable to (and in some cases less than) the fees that states charge for creating a limited liability company, which vary from \$40 to \$500." And while entities with more complex beneficial ownership structures may need to consult attorneys for an initial filing, only "4.9 percent of reporting companies will have a 'complex structure.'"²⁶ Otherwise, filing is simple and free.

These numbers are consistent with past experiences in countries that have implemented similar laws. For instance, in the United Kingdom, which maintains an analogous, yet public, register of companies' real owners, the average number of owners per business is 1.13, and the most common number of owners is one. An analysis of the UK's directory also showed that more than 99 percent of businesses listed fewer than six owners. And in the UK, the cost of compliance after the first year hovered around the equivalent of just \$2.50 per year.²⁷

²⁵ The White House, "United States Strategy on Countering Corruption", December 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>

²⁶FinCEN, "Beneficial Ownership Reporting Rule Fact Sheet", September 26, 2022, <https://www.fincen.gov/beneficial-ownership-information-reporting-rule-fact-sheet>

²⁷Global Witness, "Getting the UK's House in Order", May 6, 2019, <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/getting-uks-house-order/>

It is therefore misleading to suggest that many reporting companies will have difficulty or costly processes in identifying their beneficial owners. Moreover, as FinCEN notes, the few entities that do have more complex ownership structures, “chose their structures recognizing that costs associated with legal and tax advice and other filing and compliance obligations might be higher as a result.”²⁸ From a practical standpoint, then, it stands to reason that owners with the resources to afford professional assistance (e.g. lawyers, accountants, tax professionals, and others) when intentionally establishing a complex ownership structure would certainly have the resources to then identify the companies’ beneficial owners.

The law, as implemented, also has significant security mechanisms to allay any security concerns from filers. The database is not open to all members of the law enforcement, national security, or financial services community. Instead, to access the database, specific users must be trained and certified and must undergo a background check. All searches must be done as part of an ongoing investigation, and every file that is reviewed is logged so that there is a record of who accessed what information. Misuse of the information is a crime.

FinCEN’s roll-out of the database was successful. Already, more than 1 million businesses have successfully filed. In fact, a post roll-out poll by Small Business Majority found that among those small businesses that had filed, 68 percent reported it being somewhat or very easy to comply. Only 18% found it somewhat (12%) or very (6%) difficult.²⁹

FinCEN’s outreach and ongoing compliance education

FinCEN officials continue to produce guidance materials and conduct both in-person and online outreach to businesses. For example, on May 2, I will be joining FinCEN on a webinar open to all small businesses on the purpose of the CTA and compliance protocols. They are also beginning a new advertising campaign including digital platforms, television, and radio that is tailored and targeted to the small business community.

FinCEN has also been working with state Secretaries of State and other corporate registration offices in all 50 states to develop collaborative efforts to ease compliance, and has begun similar negotiations with the IRS as well.

Finally, I would like to clarify a point of confusion that we have seen and hear: Negligence is not punishable under this law. Small businesses that are unaware of the filing requirement will not face any consequences. We have seen statements that misrepresent the law, inaccurately suggesting that a lack of awareness of a failure to file or update is a criminal violation. Statements such as, “[O]nly a tiny percentage of the targeted 33.6 million small businesses even know it exists. That’s bad because a failure to file is accompanied by thousands in fines and two years in jail” have been widely circulated, including

²⁸Federal Register, “Beneficial Ownership Reporting Requirements: A Proposed Rule by The Financial Crimes Enforcement Network”, December 8, 2021, <https://www.federalregister.gov/documents/2021/12/08/2021-26548/beneficial-ownership-information-reporting-requirements>

²⁹ Small Business Majority, “Small Business Owners Share Their Experiences with New Beneficial Ownership Reporting Requirements”, February 15, 2024, <https://smallbusinessmajority.org/our-research/small-business-owners-share-their-experiences-new-business-ownership-information-reporting-requirements>

to congressional offices. That is simply not true. The standard for a violation is a “willful” act—that is, you must know about the law and choose to either lie in your report or refuse to file a report. Lack of awareness is not a violation, and statements like these only serve to sow confusion among businesses covered by the law.

To the extent that Congress is concerned about the lack of awareness of the law among the covered business community, I would urge members of this Committee to support increased funding for FinCEN. There is bipartisan support for an increase in resources for the Bureau in order to provide additional outreach on the CTA and other implementation costs, including assistance for law enforcement, financial institutions with customer due diligence requirements, and national security personnel who use the information to protect our communities. Additional resources could also help FinCEN implement instant checks on the data entered – much like credit card checks done for online purchases -- ensuring filers avoid honest typographical errors, saving them time and confusion when later seeking credit services at banks or other financial institutions that will confirm information by the beneficial ownership database.

Members of this Committee could show their support for small businesses by joining in the call for additional resources for FinCEN.

Thank you and I look forward to your questions.