

Repeal the Corporate Transparency Act

Problem:

The Corporate Transparency Act (CTA) was signed into law Dec. 2020 and is set to go into effect in a matter of months. This law will require ONLY certain businesses with fewer than 20 employees to disclose beneficial owners' information to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN), establishing a database of those names and duplicating information already being collected by the IRS. The CTA requires businesses to submit annual paperwork, which includes personally identifiable information of each business owner, upon the creation of the business and periodically throughout its life. Intentional or otherwise, failure to comply would be a federal crime and could result in civil penalties up to \$10,000, as well as criminal penalties of up to two years in prison. Furthermore, the legislation grants broad access to the information to federal, state, local, or tribal law enforcement agencies without having to obtain a subpoena.

- Large companies are mostly exempt from the Corporate Transparency Act—only those with 20 or fewer employees and \$5 million or less in annual sales need to report ownership information to FinCEN.
- As a result of this law, millions of small-business owners will be faced with an additional \$5.7 billion in regulatory paperwork. It imposes burdensome, duplicative reporting on the smallest businesses in the U.S. and it threatens the privacy of law-abiding, legitimate small-business owners.
- More than 4.9 million businesses will be required to provide personal ownership information to FinCEN on an annual basis. The Treasury Department would be required to retain the information for the life of the business plus five years. During previous testimony before the Senate Finance Committee, Treasury Secretary Janet Yellen said she believes anonymous shell companies are an “important problem,” further championing creation of a beneficial ownership database at FinCEN is a “very high priority.”

Solution:

While NSBA supports the goal of stemming money laundering, the CTA is unconstitutional and bad policy, especially since the information is already being collected. To protect small business owners from these costly, duplicative, and uninformed mechanisms, NSBA has filed suit against Treasury seeking to overturn the CTA's unconstitutional national mandate along with an immediate injunction to protect the small business community while the litigation moves forward. Until the lawsuit moves forward, NSBA is calling for full repeal.

- Treasury should use existing forms and databases for collecting ownership information.
- Lawmakers should seek every avenue possible to repeal the CTA and stop proposed regulations from going into effect.
- Any proposal to stem money-laundering MUST require information sharing between FinCEN and the IRS and carve out an exemption for small businesses.
- Small business should NOT be penalized due to big banks' unwillingness to collect and report on information they've historically collected.