

February 14, 2024

The Honorable Patrick McHenry
Chairman
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

RE: Hearing titled, “Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI)”

Dear Chairman McHenry and Ranking Member Waters,

Illicit proceeds equaling a staggering 2 percent of U.S. gross domestic product (GDP) – the equivalent of \$466 billion – move through our financial system each year.¹ In the newly released Treasury assessment of U.S. money laundering risks, it is clear that certain gaping holes in U.S. anti-money laundering policy are making Americans less safe.²

As groups focused on financial integrity, anti-corruption, and U.S. national security, we are writing to underscore the **importance of the work that the Financial Crimes Enforcement Network is doing to implement the Corporate Transparency Act (CTA), and to urge Congress to better resource FinCEN to finalize this and other overdue updates to the U.S. anti-money laundering framework.**

Timely Implementation of the Corporate Transparency Act

Transparency in entity ownership will help national security and law enforcement officials enforce U.S. sanctions, crack down on traffickers fueling the fentanyl crisis, and protect small businesses from fraudsters.³ At the start of the year, the Financial Crimes Enforcement Network (FinCEN) successfully implemented the Corporate Transparency Act; the database is now live and accepting information regarding the true, “beneficial” owners of reporting companies. Anecdotally, businesses with simple ownership structures have reported that it takes just 10-20 minutes to file their information with FinCEN.

¹ U.S. Treasury Department, “Treasury Strategic Plan 2022-2026,” P. 23, March 2022, <https://home.treasury.gov/system/files/266/TreasuryStrategicPlan-FY2022-2026.pdf>.

² U.S. Treasury Department, “2024 National Money Laundering Risk Assessment,” February 7, 2024, <https://home.treasury.gov/system/files/136/2024-National-Money-Laundering-Risk-Assessment.pdf>.

³ For examples, see Sibley, Nate, “Countering Chinese Communist Party Threats with Corporate Transparency” Hudson Institute; 2020, https://s3.amazonaws.com/media.hudson.org/Sibley_Countering%20CCP%20Threats%20with%20Corporate%20Transparency.pdf; Hanichak, Erica, “Biden Support for Ukraine Must Include Tackling Financial Secrecy At Home,” FACT Coalition, March 2023, <https://thefactcoalition.org/biden-support-for-ukraine-must-include-tackling-financial-secrecy-at-home/>; Transparency International U.S., “Stop Those Who Enable The Trafficking Of Fentanyl And Other Drugs Into The United States,” June 16, 2023, <https://us.transparency.org/resource/enablers-and-drug-trafficking-factsheet/>; and FACT Coalition, “FACT Sheet: Business Case for Ending Anonymous Companies,” February 2020, <https://thefactcoalition.org/fact-sheet-business-case-for-ending-anonymous-companies-february-2020/>.

The biggest tasks now remaining before Treasury and FinCEN are spreading the word with small businesses and other reporting entities about their filing requirements; updating the Customer Due Diligence (CDD) rule to conform with the law; and instituting means of verifying the data submitted to the database. Each of these crucial activities will place a demand on FinCEN for time and resources. We urge Congress to appropriately resource FinCEN to meet these challenges in a timely manner.

Moreover, we have concerns that a bill advanced by the House of Representatives—the Protect Small Business and Prevent Illicit Financial Activity Act (H.R. 5119)⁴—could, if enacted into law, be interpreted to unnecessarily delay the reporting deadline for existing entities by one year (from January 1, 2025 to January 1, 2026). In addition to inappropriately overriding the timelines set by Treasury in its existing regulations and guidance, this would very likely leave the database underpopulated for an additional year (especially as honest businesses would otherwise likely report their information this year as they update their state filings), diminishing the utility of the database and keeping a crucial tool out of the hands of national security and law enforcement officials. **We therefore oppose any efforts to move the bill through the Senate.**

Protecting U.S. Security Demands Investment in FinCEN

FinCEN—the bureau of Treasury tasked with safeguarding the world’s largest economy—needs additional resources to fulfill its mandate as the U.S. financial intelligence unit. Any appropriations agreement reached in the coming weeks must therefore increase FinCEN’s budget above the current appropriated levels of \$190 million.

Congress must resource FinCEN for the tasks ahead: whether that be for providing outreach to small businesses and financial institutions around the Corporate Transparency Act, or for closing additional loopholes in the U.S. financial system. For instance, FinCEN has initiated long-overdue rulemakings to plug anti-money laundering loopholes in the \$47 trillion U.S. residential real estate market, as well as in the \$20 trillion U.S. private investment market.⁵ It is absolutely critical that FinCEN be fully funded so that it can finalize rulemakings to end the two-decade long “temporary” exemptions for these sectors.

Conclusion

Thank you for your time. If you have any questions, you can contact Erica Hanichak (ehanichak@thefactcoalition.org).

Signed,

Citizens for Responsibility and Ethics in Washington (CREW)
Financial Accountability and Corporate Transparency (FACT) Coalition
Foundation for Defense of Democracies - Center on Economic and Financial Power (FDD CEFP)
Transparency International U.S.

⁴ Congress.gov, “H.R.5119 - Protect Small Business and Prevent Illicit Financial Activity Act,” August 1, 2023, <https://www.congress.gov/bill/118th-congress/house-bill/5119>.

⁵ Proposed Rule, U.S. Treasury Department, “Anti-Money Laundering Regulations for Residential Real Estate Transfers,” February 7, 2024, 86 FR 69589, <https://www.federalregister.gov/documents/2021/12/08/2021-26549/anti-money-laundering-regulations-for-real-estate-transactions>.