



555 12th St NW, Suite 1001
Washington, D.C. 20004

1-800-552-5342
NFIB.com

May 2, 2022

The Honorable Warren Davidson
U.S. House of Representatives
2113 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Davidson:

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I write in support of H.R. 7623, the *Financial Crimes Enforcement Network Improvements Act*. This legislation will improve the accountability of the Financial Crimes Enforcement Network (FinCEN) as it expands regulatory authority to 30 million small businesses.

The Corporate Transparency Act (CTA), as enacted into law as part of the National Defense Authorization Act for Fiscal Year 2021,¹ authorizes the Financial Crimes Enforcement Network (FinCEN) to collect the personally identifiable beneficial ownership information of 30 million small business owners, according to FinCEN estimates.² Failure to provide completed and updated reports can result in criminal penalties up to two years in prison and civil penalties up to \$10,000 for small business owners.

The CTA expands FinCEN's regulatory authority from its traditional role of regulating financial institutions into nearly every sector and business of the American economy. However, FinCEN does not have the same accountability to Congress and the public that other major intelligence agencies, such as the Federal Bureau of Investigations (FBI) and the Central Intelligence Agency (CIA), do. Unlike the FBI and CIA, which are led by directors nominated by the President and confirmed by the U.S. Senate, FinCEN's director is appointed by the Secretary of the Treasury without the formal input of Congress. FinCEN should be structured in a similar manner and the director should be nominated by the President and be confirmed with the advice and consent of the Senate, which your legislation proposes.

¹ TITLE LXIV—ESTABLISHING BENEFICIAL OWNERSHIP INFORMATION REPORTING REQUIREMENTS, William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116-283, January 1, 2021, <https://www.congress.gov/116/plaws/publ283/PLAW-116publ283.pdf>.

² "FinCEN estimates that there are now approximately 30 million such entities in the United States, and that approximately three million such entities are created in the United States each year." (Printed page 69939), *Beneficial Ownership Information Reporting Requirements*, Proposed Rule, December 8, 2021, <https://www.federalregister.gov/documents/2021/12/08/2021-26548/beneficial-ownership-information-reporting-requirements>.

This legislation will also hold FinCEN more accountable to the public and small business community by establishing a special Deputy Inspector General for FinCEN as well as a Civil Liberties Protection Officer for FinCEN in the Treasury Department's front office. With 471 agencies and 13,000 to 16,000 people having access to FinCEN's database,³ oversight of those accessing the information is critical to safeguard the civil liberties of small business owners. Additionally, this legislation guarantees that FinCEN must follow all appropriate procedures when issuing rules such as giving the public at least 30 days' notice before new FinCEN rules take effect, considering the impact of its proposed and final rules on small entities, and giving Congress time to review and, if necessary, overturn, significant FinCEN regulations before they take effect.

NFIB appreciates your effort to bring accountability to FinCEN and protect the civil liberties of small business owners across the country, and strongly supports H.R. 7623, the *Financial Crimes Enforcement Network Improvements Act*.

Sincerely,

A handwritten signature in black ink that reads "Kevin Kuhlman". The signature is written in a cursive, slightly slanted style.

Kevin Kuhlman
Vice President, Federal Government Relations
NFIB

³ Acting Director Himamauli "Him" Das answers to questions from Congressman Patrick McHenry, U.S. House Committee on Financial Services Hearing on "Oversight of the Financial Crimes Enforcement Network," April 28, 2022, <https://financialservices.house.gov/events/eventsingle.aspx?EventID=409259#Webcast>.