

CORPORATE TRANSPARENCY ACT OF 2019

OCTOBER 8, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2513]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2513) to ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Corporate Transparency Act of 2019”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Nearly 2,000,000 corporations and limited liability companies are being formed under the laws of the States each year.

(2) Very few States require information about the beneficial owners of the corporations and limited liability companies formed under their laws.

(3) A person forming a corporation or limited liability company within the United States typically provides less information at the time of incorporation than is needed to obtain a bank account or driver’s license and typically does not name a single beneficial owner.

(4) Criminals have exploited State formation procedures to conceal their identities when forming corporations or limited liability companies in the United States, and have then used the newly created entities to commit crimes affecting interstate and international commerce such as terrorism, proliferation financing, drug and human trafficking, money laundering, tax evasion, counterfeiting, piracy, securities fraud, financial fraud, and acts of foreign corruption.

(5) Law enforcement efforts to investigate corporations and limited liability companies suspected of committing crimes have been impeded by the lack of available beneficial ownership information, as documented in reports and testimony by officials from the Department of Justice, the Department of Homeland Security, the Department of the Treasury, and the Government Accountability Office, and others.

(6) In July 2006, the leading international antimoney laundering standard-setting body, the Financial Action Task Force on Money Laundering (in this section referred to as the “FATF”), of which the United States is a member, issued a report that criticizes the United States for failing to comply with a FATF standard on the need to collect beneficial ownership information and urged the United States to correct this deficiency by July 2008. In December 2016, FATF issued another evaluation of the United States, which found that little progress has been made over the last ten years to address this problem. It identified the “lack of timely access to adequate, accurate and current beneficial ownership information” as a fundamental gap in United States efforts to combat money laundering and terrorist finance.

(7) In response to the 2006 FATF report, the United States has urged the States to obtain beneficial ownership information for the corporations and limited liability companies formed under the laws of such States.

(8) In contrast to practices in the United States, all 28 countries in the European Union are required to have corporate registries that include beneficial ownership information.

(9) To reduce the vulnerability of the United States to wrongdoing by United States corporations and limited liability companies with hidden owners, to protect interstate and international commerce from criminals misusing United States corporations and limited liability companies, to strengthen law enforcement investigations of suspect corporations and limited liability companies, to set a clear, universal standard for State incorporation practices, and to bring the United States into compliance with international anti-money laundering standards, Federal legislation is needed to require the collection of beneficial ownership information for the corporations and limited liability companies formed under the laws of such States.

**SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

(a) IN GENERAL.—

(1) AMENDMENT TO THE BANK SECRECY ACT.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5332 the following new section:

**“§ 5333 Transparent incorporation practices**

“(a) REPORTING REQUIREMENTS.—

“(1) BENEFICIAL OWNERSHIP REPORTING.—

“(A) IN GENERAL.—Each applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe shall file a report with FinCEN containing a list of the beneficial owners of the corporation or limited liability company that—

“(i) except as provided in paragraphs (3) and (4), and subject to paragraph (2), identifies each beneficial owner by—

“(I) full legal name;

“(II) date of birth;

“(III) current residential or business street address; and

“(IV) a unique identifying number from a non-expired passport issued by the United States, a non-expired personal identification card, or a non-expired driver’s license issued by a State; and

“(ii) if the applicant is not a beneficial owner, also provides the identification information described in clause (i) relating to such applicant.

“(B) UPDATED INFORMATION.—Each corporation or limited liability company formed under the laws of a State or Indian Tribe shall—

“(i) submit to FinCEN an annual filing containing a list of—

“(I) the current beneficial owners of the corporation or limited liability company and the information described in subparagraph (A) for each such beneficial owner; and

“(II) any changes in the beneficial owners of the corporation or limited liability company during the previous year; and

“(ii) pursuant to any rule issued by the Secretary of the Treasury under subparagraph (C), update the list of the beneficial owners of the corporation or limited liability company within the time period prescribed by such rule.

“(C) RULEMAKING ON UPDATING INFORMATION.—Not later than 9 months after the completion of the study required under section 4(a)(1) of the Corporate Transparency Act of 2019, the Secretary of the Treasury shall consider the findings of such study and, if the Secretary determines it to be necessary or appropriate, issue a rule requiring corporations and limited liability companies to update the list of the beneficial owners of the corporation or limited liability company within a specified amount of time after the date of any change in the list of beneficial owners or the information required to be provided relating to each beneficial owner.

“(D) STATE NOTIFICATION.—Each State in which a corporation or limited liability company is being formed shall notify each applicant of the requirements listed in subparagraphs (A) and (B).

“(2) CERTAIN BENEFICIAL OWNERS.—If an applicant to form a corporation or limited liability company or a beneficial owner, or similar agent of a corporation or limited liability company who is required to provide identification information under this subsection, does not have a nonexpired passport issued by the United States, a nonexpired personal identification card, or a non-expired driver’s license issued by a State, each such person shall provide to FinCEN the full legal name, current residential or business street address, a unique identifying number from a non-expired passport issued by a foreign government, and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for each beneficial owner, and each application described in paragraph (1)(A) and each update described in paragraph (1)(B) shall include a written certification by a person residing in the State or Indian country under the jurisdiction of the Indian Tribe forming the entity that the applicant, corporation, or limited liability company—

“(A) has obtained for each such beneficial owner, a current residential or business street address and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for the person;

“(B) has verified the full legal name, address, and identity of each such person;

“(C) will provide the information described in subparagraph (A) and the proof of verification described in subparagraph (B) upon request of FinCEN; and

“(D) will retain the information and proof of verification under this paragraph until the end of the 5-year period beginning on the date that the cor-

poration or limited liability company terminates under the laws of the State or Indian Tribe.

“(3) EXEMPT ENTITIES.—

“(A) IN GENERAL.—With respect to an applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe, if such entity is described in subparagraph (C) or (D) of subsection (d)(4) and will be exempt from the beneficial ownership disclosure requirements under this subsection, such applicant, or a prospective officer, director, or similar agent of the applicant, shall file a written certification with FinCEN—

“(i) identifying the specific provision of subsection (d)(4) under which the entity proposed to be formed would be exempt from the beneficial ownership disclosure requirements under paragraphs (1) and (2);

“(ii) stating that the entity proposed to be formed meets the requirements for an entity described under such provision of subsection (d)(4); and

“(iii) providing identification information for the applicant or prospective officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

“(B) EXISTING CORPORATIONS OR LIMITED LIABILITY COMPANIES.—On and after the date that is 2 years after the final regulations are issued to carry out this section, a corporation or limited liability company formed under the laws of the State or Indian Tribe before such date shall be subject to the requirements of this subsection unless an officer, director, or similar agent of the entity submits to FinCEN a written certification—

“(i) identifying the specific provision of subsection (d)(4) under which the entity is exempt from the requirements under paragraphs (1) and (2);

“(ii) stating that the entity meets the requirements for an entity described under such provision of subsection (d)(4); and

“(iii) providing identification information for the officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

“(C) EXEMPT ENTITIES HAVING OWNERSHIP INTEREST.—If an entity described in subparagraph (C) or (D) of subsection (d)(4) has or will have an ownership interest in a corporation or limited liability company formed or to be formed under the laws of a State or Indian Tribe, the applicant, corporation, or limited liability company in which the entity has or will have the ownership interest shall provide the information required under this subsection relating to the entity, except that the entity shall not be required to provide information regarding any natural person who has an ownership interest in, exercises substantial control over, or receives substantial economic benefits from the entity.

“(4) FINCEN ID NUMBERS.—

“(A) ISSUANCE OF FINCEN ID NUMBER.—

“(i) IN GENERAL.—FinCEN shall issue a FinCEN ID number to any individual who requests such a number and provides FinCEN with the information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

“(ii) UPDATING OF INFORMATION.—An individual with a FinCEN ID number shall submit an annual filing with FinCEN updating any information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

“(B) USE OF FINCEN ID NUMBER IN REPORTING REQUIREMENTS.—Any person required to report the information described under paragraph (1)(A)(i) with respect to an individual may instead report the FinCEN ID number of the individual.

“(C) TREATMENT OF INFORMATION SUBMITTED FOR FINCEN ID NUMBER.—

For purposes of this section, any information submitted under subparagraph (A) shall be deemed to be beneficial ownership information.

“(5) RETENTION AND DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION BY FINCEN.—

“(A) RETENTION OF INFORMATION.—Beneficial ownership information relating to each corporation or limited liability company formed under the laws of the State or Indian Tribe shall be maintained by FinCEN until the end of the 5-year period (or such other period of time as the Secretary of the Treasury may, by rule, determine) beginning on the date that the corporation or limited liability company terminates.

“(B) DISCLOSURE OF INFORMATION.—Beneficial ownership information reported to FinCEN pursuant to this section shall be provided by FinCEN only upon receipt of—

“(i) subject to subparagraph (C), a request, through appropriate protocols, by a local, Tribal, State, or Federal law enforcement agency;

“(ii) a request made by a Federal agency on behalf of a law enforcement agency of another country under an international treaty, agreement, or convention, or an order under section 3512 of title 18 or section 1782 of title 28; or

“(iii) a request made by a financial institution, with customer consent, as part of the institution’s compliance with due diligence requirements imposed under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable Federal, State, or Tribal law.

“(C) APPROPRIATE PROTOCOLS.—

“(i) PRIVACY.—The protocols described in subparagraph (B)(i) shall—

“(I) protect the privacy of any beneficial ownership information provided by FinCEN to a local, Tribal, State, or Federal law enforcement agency;

“(II) ensure that a local, Tribal, State, or Federal law enforcement agency requesting beneficial ownership information has an existing investigatory basis for requesting such information;

“(III) ensure that access to beneficial ownership information is limited to authorized users at a local, Tribal, State, or Federal law enforcement agency who have undergone appropriate training, and that the identity of such authorized users is verified through appropriate mechanisms, such as two-factor authentication;

“(IV) include an audit trail of requests for beneficial ownership information by a local, Tribal, State, or Federal law enforcement agency, including, as necessary, information concerning queries made by authorized users at a local, Tribal, State, or Federal law enforcement agency;

“(V) require that every local, Tribal, State, or Federal law enforcement agency that receives beneficial ownership information from FinCEN conducts an annual audit to verify that the beneficial ownership information received from FinCEN has been accessed and used appropriately, and consistent with this paragraph; and

“(VI) require FinCEN to conduct an annual audit of every local, Tribal, State, or Federal law enforcement agency that has received beneficial ownership information to ensure that such agency has requested beneficial ownership information, and has used any beneficial ownership information received from FinCEN, appropriately, and consistent with this paragraph.

“(ii) LIMITATION ON USE.—Beneficial ownership information provided to a local, Tribal, State, or Federal law enforcement agency under this paragraph may only be used for law enforcement, national security, or intelligence purposes.

“(b) NO BEARER SHARE CORPORATIONS OR LIMITED LIABILITY COMPANIES.—A corporation or limited liability company formed under the laws of a State or Indian Tribe may not issue a certificate in bearer form evidencing either a whole or fractional interest in the corporation or limited liability company.

“(c) PENALTIES.—

“(1) IN GENERAL.—It shall be unlawful for any person to affect interstate or foreign commerce by—

“(A) knowingly providing, or attempting to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph, to FinCEN in accordance with this section;

“(B) willfully failing to provide complete or updated beneficial ownership information to FinCEN in accordance with this section; or

“(C) knowingly disclosing the existence of a subpoena or other request for beneficial ownership information reported pursuant to this section, except—

“(i) to the extent necessary to fulfill the authorized request; or

“(ii) as authorized by the entity that issued the subpoena, or other request.

“(2) CIVIL AND CRIMINAL PENALTIES.—Any person who violates paragraph (1)—

“(A) shall be liable to the United States for a civil penalty of not more than \$10,000; and

“(B) may be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

“(3) LIMITATION.—Any person who negligently violates paragraph (1) shall not be subject to civil or criminal penalties under paragraph (2).

“(4) WAIVER.—The Secretary of the Treasury may waive the penalty for violating paragraph (1) if the Secretary determines that the violation was due to reasonable cause and was not due to willful neglect.

“(5) CRIMINAL PENALTY FOR THE MISUSE OR UNAUTHORIZED DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION.—The criminal penalties provided for under section 5322 shall apply to a violation of this section to the same extent as such criminal penalties apply to a violation described in section 5322, if the violation of this section consists of the misuse or unauthorized disclosure of beneficial ownership information.

“(d) DEFINITIONS.—For the purposes of this section:

“(1) APPLICANT.—The term ‘applicant’ means any natural person who files an application to form a corporation or limited liability company under the laws of a State or Indian Tribe.

“(2) BANK SECRECY ACT.—The term ‘Bank Secrecy Act’ means—

“(A) section 21 of the Federal Deposit Insurance Act;

“(B) chapter 2 of title I of Public Law 91–508; and

“(C) this subchapter.

“(3) BENEFICIAL OWNER.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘beneficial owner’ means a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

“(i) exercises substantial control over a corporation or limited liability company;

“(ii) owns 25 percent or more of the equity interests of a corporation or limited liability company; or

“(iii) receives substantial economic benefits from the assets of a corporation or limited liability company.

“(B) EXCEPTIONS.—The term ‘beneficial owner’ shall not include—

“(i) a minor child, as defined in the State or Indian Tribe in which the entity is formed;

“(ii) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

“(iii) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;

“(iv) a person whose only interest in a corporation or limited liability company is through a right of inheritance; or

“(v) a creditor of a corporation or limited liability company, unless the creditor also meets the requirements of subparagraph (A).

“(C) SUBSTANTIAL ECONOMIC BENEFITS DEFINED.—

“(i) IN GENERAL.—For purposes of subparagraph (A)(ii), a natural person receives substantial economic benefits from the assets of a corporation or limited liability company if the person has an entitlement to more than a specified percentage of the funds or assets of the corporation or limited liability company, which the Secretary of the Treasury shall, by rule, establish.

“(ii) RULEMAKING CRITERIA.—In establishing the percentage under clause (i), the Secretary of the Treasury shall seek to—

“(I) provide clarity to corporations and limited liability companies with respect to the identification and disclosure of a natural person who receives substantial economic benefits from the assets of a corporation or limited liability company; and

“(II) identify those natural persons who, as a result of the substantial economic benefits they receive from the assets of a corporation or limited liability company, exercise a dominant influence over such corporation or limited liability company.

“(4) CORPORATION; LIMITED LIABILITY COMPANY.—The terms ‘corporation’ and ‘limited liability company’—

“(A) have the meanings given such terms under the laws of the applicable State or Indian Tribe;

“(B) include any non-United States entity eligible for registration or registered to do business as a corporation or limited liability company under the laws of the applicable State or Indian Tribe;

“(C) do not include any entity that is—

“(i) a business concern that is an issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15

U.S.C. 781) or that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d));

“(ii) a business concern constituted, sponsored, or chartered by a State or Indian Tribe, a political subdivision of a State or Indian Tribe, under an interstate compact between two or more States, by a department or agency of the United States, or under the laws of the United States;

“(iii) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

“(iv) a credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

“(v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) or a savings and loan holding company (as defined in section 10(a) of the Home Owners’ Loan Act (12 U.S.C. 1467a(a));

“(vi) a broker or dealer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o);

“(vii) an exchange or clearing agency (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 6 or 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78f and 78q-1);

“(viii) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) or an investment adviser (as defined in section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11))), if the company or adviser is registered with the Securities and Exchange Commission, has filed an application for registration which has not been denied, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) or the Investment Adviser Act of 1940 (15 U.S.C. 80b-1 et seq.), or is an investment adviser described under section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(l));

“(ix) an insurance company (as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2));

“(x) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), or a futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is registered with the Commodity Futures Trading Commission;

“(xi) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act (15 U.S.C. 7212) or an entity controlling, controlled by, or under common control of such a firm;

“(xii) a public utility that provides telecommunications service, electrical power, natural gas, or water and sewer services, within the United States;

“(xiii) a church, charity, nonprofit entity, or other organization that is described in section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, that has not been denied tax exempt status, and that has filed the most recently due annual information return with the Internal Revenue Service, if required to file such a return;

“(xiv) a financial market utility designated by the Financial Stability Oversight Council under section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

“(xv) an insurance producer (as defined in section 334 of the Gramm-Leach-Bliley Act);

“(xvi) any business concern that—

“(I) employs more than 20 employees on a full-time basis in the United States;

“(II) files income tax returns in the United States demonstrating more than \$5,000,000 in gross receipts or sales; and

“(III) has an operating presence at a physical office within the United States; or

“(xvii) any corporation or limited liability company formed and owned by an entity described in this clause or in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), or (xvi); and

“(D) do not include any individual business concern or class of business concerns which the Secretary of the Treasury and the Attorney General of the United States have jointly determined, by rule or otherwise, to be exempt from the requirements of subsection (a), if the Secretary and the At-

torney General jointly determine that requiring beneficial ownership information from the business concern would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or prosecute terrorism, money laundering, tax evasion, or other misconduct.

“(5) **FINCEN.**—The term ‘FinCEN’ means the Financial Crimes Enforcement Network of the Department of the Treasury.

“(6) **INDIAN COUNTRY.**—The term ‘Indian country’ has the meaning given that term in section 1151 of title 18.

“(7) **INDIAN TRIBE.**—The term ‘Indian Tribe’ has the meaning given that term under section 102 of the Federally Recognized Indian Tribe List Act of 1994.

“(8) **PERSONAL IDENTIFICATION CARD.**—The term ‘personal identification card’ means an identification document issued by a State, Indian Tribe, or local government to an individual solely for the purpose of identification of that individual.

“(9) **STATE.**—The term ‘State’ means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.”.

(2) **RULEMAKING.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out this Act and the amendments made by this Act, including, to the extent necessary, to clarify the definitions in section 5333(d) of title 31, United States Code.

(B) **REVISION OF FINAL RULE.**—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall revise the final rule titled “Customer Due Diligence Requirements for Financial Institutions” (May 11, 2016; 81 Fed. Reg. 29397) to—

(i) bring the rule into conformance with this Act and the amendments made by this Act;

(ii) account for financial institutions’ access to comprehensive beneficial ownership information filed by corporations and limited liability companies, under threat of civil and criminal penalties, under this Act and the amendments made by this Act; and

(iii) reduce any burdens on financial institutions that are, in light of the enactment of this Act and the amendments made by this Act, unnecessary or duplicative.

(3) **CONFORMING AMENDMENTS.**—Title 31, United States Code, is amended—

(A) in section 5321(a)—

(i) in paragraph (1), by striking “sections 5314 and 5315” each place it appears and inserting “sections 5314, 5315, and 5333”; and

(ii) in paragraph (6), by inserting “(except section 5333)” after “subchapter” each place it appears; and

(B) in section 5322, by striking “section 5315 or 5324” each place it appears and inserting “section 5315, 5324, or 5333”.

(4) **TABLE OF CONTENTS.**—The table of contents of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5332 the following:

“5333. Transparent incorporation practices.”.

(b) **FUNDING AUTHORIZATION.**—

(1) **IN GENERAL.**—To carry out section 5333 of title 31, United States Code, as added by subsection (a), funds shall be made available to the Financial Crimes Enforcement Network (in this subsection referred to as “FinCEN”) to pay reasonable costs relating to compliance with the requirements of such section.

(2) **FUNDING SOURCES.**—Funds shall be provided to FinCEN to carry out the purposes described in paragraph (1) from one or more of the following sources:

(A) Upon application by FinCEN, and without further appropriation, the Secretary of the Treasury shall make available to the FinCEN unobligated balances described in section 9703(g)(4)(B) of title 31, United States Code, in the Department of the Treasury Forfeiture Fund established under section 9703(a) of title 31, United States Code.

(B) Upon application by FinCEN, after consultation with the Secretary of the Treasury, and without further appropriation, the Attorney General of the United States shall make available to FinCEN excess unobligated balances (as defined in section 524(c)(8)(D) of title 28, United States Code) in the Department of Justice Assets Forfeiture Fund established under section 524(c) of title 28, United States Code.



## (3) MAXIMUM AMOUNTS.—

(A) DEPARTMENT OF THE TREASURY.—The Secretary of the Treasury may not make available to FinCEN a total of more than \$30,000,000 under paragraph (2)(A).

(B) DEPARTMENT OF JUSTICE.—The Attorney General of the United States may not make available to FinCEN a total of more than \$10,000,000 under paragraph (2)(B).

(c) FEDERAL CONTRACTORS.—Not later than the first day of the first full fiscal year beginning at least 1 year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation maintained under section 1303(a)(1) of title 41, United States Code, to require any contractor or subcontractor who is subject to the requirement to disclose beneficial ownership information under section 5333 of title 31, United States Code, to provide the information required to be disclosed under such section to the Federal Government as part of any bid or proposal for a contract with a value threshold in excess of the simplified acquisition threshold under section 134 of title 41, United States Code.

**SEC. 4. STUDIES AND REPORTS.**

## (a) UPDATING OF BENEFICIAL OWNERSHIP INFORMATION.—

(1) STUDY.—The Secretary of the Treasury, in consultation with the Attorney General of the United States, shall conduct a study to evaluate—

(A) the necessity of a requirement for corporations and limited liability companies to update the list of their beneficial owners within a specified amount of time after the date of any change in the list of beneficial owners or the information required to be provided relating to each beneficial owner, taking into account the annual filings required under section 5333(a)(1)(B)(i) of title 31, United States Code, and the information contained in such annual filings; and

(B) the burden that a requirement to update the list of beneficial owners within a specified period of time after a change in such list of beneficial owners would impose on corporations and limited liability companies.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report on the study required under paragraph (1) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate

(3) PUBLIC COMMENT.—The Secretary of the Treasury shall seek and consider public input, comments, and data in order to conduct the study required under subparagraph paragraph (1).

(b) OTHER LEGAL ENTITIES.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report—

(1) identifying each State or Indian Tribe that has procedures that enable persons to form or register under the laws of the State or Indian Tribe partnerships, trusts, or other legal entities, and the nature of those procedures;

(2) identifying each State or Indian Tribe that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State or Indian Tribe to provide information about the beneficial owners (as that term is defined in section 5333(d)(1) of title 31, United States Code, as added by this Act) or beneficiaries of such entities, and the nature of the required information;

(3) evaluating whether the lack of available beneficial ownership information for partnerships, trusts, or other legal entities—

(A) raises concerns about the involvement of such entities in terrorism, money laundering, tax evasion, securities fraud, or other misconduct;

(B) has impeded investigations into entities suspected of such misconduct; and

(C) increases the costs to financial institutions of complying with due diligence requirements imposed under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable Federal, State, or Tribal law; and

(4) evaluating whether the failure of the United States to require beneficial ownership information for partnerships and trusts formed or registered in the United States has elicited international criticism and what steps, if any, the United States has taken or is planning to take in response.

(c) EFFECTIVENESS OF INCORPORATION PRACTICES.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report assessing the effective-

ness of incorporation practices implemented under this Act and the amendments made by this Act in—

- (1) providing law enforcement agencies with prompt access to reliable, useful, and complete beneficial ownership information; and
- (2) strengthening the capability of law enforcement agencies to combat incorporation abuses, civil and criminal misconduct, and detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct.

**SEC. 5. DEFINITIONS.**

In this Act, the terms “Bank Secrecy Act”, “beneficial owner”, “corporation”, and “limited liability company” have the meaning given those terms, respectively, under section 5333(d) of title 31, United States Code.

**PURPOSE AND SUMMARY**

On May 3, 2019, Representative Carolyn Maloney introduced H.R. 2513, the “Corporate Transparency Act of 2019,” which would require corporations and limited liability corporations (LLCs) to disclose their true “beneficial owners” to the Financial Crime Enforcement Network (FinCEN) at the time a company is formed and in annual filings. Companies would also disclose beneficial ownership and changes in beneficial owners in annual filings.

The FinCEN database of beneficial ownership information would be available to law enforcement agencies and, with customer consent, to financial institutions for purposes of complying with their “Know-Your-Customer” regulatory requirements, along with appropriate privacy protections. The Corporate Transparency Act further establishes criminal penalties for the misuse or unauthorized disclosure of the beneficial ownership information. Criminal penalties may also be imposed on persons who knowingly provide false or fraudulent beneficial information or who willfully fail to complete or update the required filings. The Corporate Transparency Act, however, is explicit in providing an exception that declares that negligent violations will not be subject to civil or criminal penalties. Penalties may also be waived where the Secretary of the Treasury determines that a violation was based on reasonable cause.

The Corporate Transparency Act exempts entities already required by Federal or state law to disclose their beneficial owners, such as SEC-regulated public companies, state-regulated insurance companies, and charitable organizations. It also requires FinCEN to act within a year to remove redundancies with its Customer Due Diligence rule.

**BACKGROUND AND NEED FOR LEGISLATION**

No state of the United States currently requires companies, including anonymous shell companies, to disclose their beneficial owners. Anonymous shell companies are business entities formed to hold funds or conduct financial transactions but generally do not have a physical address, employees, business operations, or real assets. They afford a high level of secrecy, enabling criminals, terrorists, and money launderers to make use of them to hide their illicit proceeds and facilitate illegal activities. This lack of transparency is considered by law enforcement, financial institutions, and anti-corruption organizations to be a primary obstacle to tackling financial crime in the modern era. The Corporate Transparency Act would address this omnipresent hindrance by requiring a company’s beneficial owners to be disclosed to FinCEN at the time the company is formed and in annual filings.

Furthermore, the United States does not meet international standards with regards to disclosure of beneficial ownership. The Financial Action Task Force (FATF), the international standard-setting body for anti-money laundering/combating the financing of terrorism (AML/CFT), conducted a peer review on the United States AML/CFT regime in December 2016 and determined that “lack of timely access to adequate, accurate and current beneficial ownership (BO) information remains one of the fundamental gaps in the U.S. context.”<sup>1</sup> Several other developed countries have met international standards of collecting beneficial ownership information. The European Union (E.U.), for example, enacted the E.U. Fourth Anti-Money Laundering Directive in 2015, requiring all members states to collect and share beneficial ownership information. The United Kingdom has also established a publicly searchable database and commensurate laws to fulfill this purpose. Accordingly, requiring the disclosure of a company’s beneficial owners would bring the United States in compliance with FATF recommendations and in line with partner nations.

Bringing the United States in line with these standards, the Corporate Transparency Act’s disclosure requirements will define beneficial owners as including all natural persons who exercise substantial control over a company, own 25% or more of the equity interests of a company, or receive substantial economic benefits from the assets of a company. To ensure that privacy is protected, the Corporate Transparency Act requires FinCEN to establish protocols and oversee the access and appropriate use of the beneficial ownership information by eligible law enforcement agencies. FinCEN and every recipient law enforcement agency must also audit this access and appropriate use on an annual basis to ensure adherence to these standards. The agency must also give filers the option to obtain a masked, FinCEN-generated customer identification number for use in the fulfillment of related reporting requirements.

On March 13, 2019, the Subcommittee on National Security, International Development, and Monetary Policy held a hearing during which the legislation was considered. Dennis Lormel, a former special agent at the Federal Bureau of Investigation (FBI) and former Director of the FBI’s Terrorist Financing Operation Section, spoke in support of the bill stating “I want to strongly encourage the committee to pass this legislation, beneficial ownership legislation. I have been advocating for this since 2012, and I think it’s really important.” Lormel also stated that he believes the collection of beneficial ownership information would help law enforcement pursue criminal drug traffickers.

In a May 6, 2019 letter, the National District Attorneys Association (NDAA), the largest prosecutor organization representing 2,500 elected and appointed District Attorneys and 40,000 Assistant District Attorneys across the United States, wrote, “[f]ollowing hearings in the Senate and House on this issue, NDAA has chosen to support the Corporate Transparency Act. The need for the collection of beneficial ownership information is critical to law enforcement investigations into organized transnational criminal oper-

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<sup>1</sup>FATF (2016), Anti-money laundering and counter-terrorist financing measures—United States, Fourth Round Mutual Evaluation Report, FATF, Paris, p. 4 [www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html](http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html).

ations, terrorism financing and other unlawful activity.”<sup>2</sup> In a separate May 6, 2019 letter, the Fraternal Order of Police (FOP) wrote, “I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for HR. 2513, the ‘Corporation Transparency Act.’ The FOP has supported this legislation for many years and we are grateful that the committee will be considering it this week. Transnational criminal organizations and terrorist operations are using our banks, financial institutions and other means to profit from their illegal activity. This is a well-documented problem for our financial institutions and for law enforcement as we work together to shut down these sophisticated criminal enterprises.”<sup>3</sup>

In addition, the Corporate Transparency Act, and the collection of beneficial ownership information, is supported by a wide range of stakeholders in addition to those referenced above, including law enforcement associations, transparency advocates, national security experts, anti-human trafficking organizations, human rights groups, international development organizations, financial services industry representatives, and real estate associations. Some of these supporters of the legislation or collection of beneficial ownership information include the National Sheriff’s Association, the National Association of Assistant U.S. Attorneys (NAAUSA), a bipartisan group of 91 national security experts,<sup>4</sup> Jubilee USA, Street Grace, Polaris, human rights groups (including Amnesty International USA, Human Rights Watch, Human Rights First, Freedom House), international development organizations (including ONE Campaign, Oxfam, ActionAid, Bread for the World), Bank Policy Institute, Consumer Bankers Association, Securities Industry and Financial Markets Association, Mid-Size Bank Coalition of America, Institute of International Bankers, American Bankers Association, Financial Services Forum, Bankers Association for Finance and Trade, Institute of International Finance, Independent Community Bankers of America (ICBA), National Association of Federally-Insured Credit Unions (NAFCU), American Escrow Association, American Land Title Association, National Association of REALTORS, Real Estate Services Providers Council, Inc. (RESPRO).

## SECTION-BY-SECTION ANALYSIS

### *Section 1. Short title*

This section provides that the short title of the bill is the “Corporate Transparency Act of 2019”.

### *Section 2. Findings*

This section states various findings that demonstrate the need for the bill. These provide in part that—

<sup>2</sup> Letter to the Honorable Carolyn B. Maloney, National District Attorneys Association (May 6, 2019), <https://thefactcoalition.org/wp-content/uploads/2019/05/NDAA-Ben-Ownership-Letter-5-6-19-Maloney.pdf>.

<sup>3</sup> Letter to Chairwoman Waters and Ranking Member McHenry, Fraternal Order of Police (May 6, 2019) <https://thefactcoalition.org/wp-content/uploads/2019/05/FOP-Support-HR-2513-Corporate-Transparency.pdf>.

<sup>4</sup> Letter to Chairwoman Waters and Ranking Member McHenry, Bipartisan Group of 91 National Security Experts Urge Lawmakers to End Anonymous Companies (June 10, 2019), <https://thefactcoalition.org/wp-content/uploads/2019/06/HFSC-Letter-on-Anonymous-Companies-and-National-Security-20190610.pdf>.

1. Nearly 2,000,000 corporations and limited liability companies are formed under the laws of the several States each year;
2. Very few states require information about the beneficial owners of such corporations and companies.
3. A person forming such corporations or companies typically provides less information at the time of incorporation than needed to obtain a bank account or driver's license.
4. Criminals have concealed their identities and used such entities to commit crimes affecting interstate and international commerce such as terrorism, proliferation financing, drug and human trafficking, money laundering, and security and financial fraud.
5. Law enforcement efforts to investigate such entities are impeded by a lack of available beneficial ownership information.
6. The Financial Action Task Force on Money Laundering criticized the United States for failing to collect beneficial ownership information, and the United States itself has urged individual states to obtain beneficial ownership information.
7. This gap is in contrast to the requirements of all 28 countries in the European Union to have corporate registries that include beneficial ownership.
8. Because of these factors, Federal legislation is needed to require the collection of beneficial ownership information for such entities.

### *Section 3. Transparent incorporation practices*

Paragraph (1) of subsection (a) amends the Bank Secrecy Act (BSA) by adding a new section 5333 to chapter 53, title 31 of the U.S. Code.

#### *Beneficial ownership reporting requirements*

Subsection (a)(1) of the new section 5333 requires applicants seeking to form a corporation or a limited liability company (LLC) (hereinafter, a "company") to file a list of its beneficial owners with the Financial Crimes Enforcement Network (FinCEN) at the time the company is formed. The list of beneficial owners filed with FinCEN must include the same information that financial institutions are required to collect under FinCEN's Customer Due Diligence (CDD) rule: the full legal name, date of birth, current residential or business address, and a current identifying number, such as a driver's license or passport number, for each beneficial owner. Applicants are also required to provide the aforementioned identification information even if they are not themselves beneficial owners.

Subsection (a)(1) also requires companies to file annually with FinCEN a list of its current beneficial owners, as well as a list of any changes in beneficial ownership that occurred during the previous year. In addition, the Treasury Secretary is authorized to require companies to file more frequent updates with FinCEN if the Secretary issues a rule requiring updates within a specified amount of time after a change in a company's beneficial ownership. Prior to issuing this rule, the Secretary, in consultation with the Attorney General, must conduct a study of the necessity of requiring companies to file updates with FinCEN in between the required annual filings.

Finally, subsection (a)(1) requires states to notify each applicant seeking to form a company in the state of its obligation to file a list of its beneficial owners with FinCEN.

*Identification of certain beneficial owners*

Subsection (a)(2) of the new section 5333 requires that, if a beneficial owner of a company does not have a current U.S. identifying number, such as a driver's license or U.S. passport number, applicants seeking to form the company must file with FinCEN each foreign beneficial owner's full legal name, current residential or business address, and a current foreign passport number, along with a copy of the foreign passport.

In each filing with FinCEN, applicants for a company with a foreign beneficial owner must certify that they have obtained all the necessary information for each foreign beneficial owner, have verified the name, address, and identity of each foreign beneficial owner, will provide this information to FinCEN upon request, and will retain the information for 5 years after the company terminates.

*Exempt entities*

Subsection (a)(3) of the new section 5333 requires applicants seeking to form an entity that is exempt from filing beneficial ownership information with FinCEN (see section 5333(d)(4)(C) for a list of exempt entities) to file a written certification with FinCEN identifying the specific applicable exemption and provide the identifying information (as described in Section 5333(a)(1)) of the applicant.

Existing entities that qualify for an exemption have 2 years from the date that the final regulations are issued by Treasury to carry out this Act to file the required certification with FinCEN stating that it is exempt.

For existing exempt entities that have an ownership interest in a non-exempt company, only the non-exempt company is required to file beneficial ownership information with FinCEN.

*FinCEN ID numbers, retention, and disclosure of information*

Subsection (a)(4) of the new section 5333 requires FinCEN to issue a FinCEN ID number to any individuals who requests one and provide identifying information (as described in the new section 5333(a)(1)). Individuals with a FinCEN ID number are required to submit an annual filing with FinCEN updating their identifying information. Any person required to report identifying information as described in the new section 5333(a)(1) may report the FinCEN ID number of the individual in the place of the individual's identifying information. The information submitted for a FinCEN ID number shall be deemed to be beneficial ownership information.

Subsection (a)(5)(A) of the new section 5333 requires FinCEN to retain the beneficial ownership information filed with it for 5 years after the company terminates. Treasury is authorized to shorten the 5-year retention period by rule.

Subsection (a)(5)(B) provides that FinCEN may only provide beneficial ownership information to:

1. Federal, state, local, or Tribal law enforcement agencies, and only pursuant to a request through appropriate protocols;
2. A Federal agency making a request on behalf of a foreign law enforcement agency pursuant to an international treaty, agreement, convention, or order; and
3. Financial institutions, with customer consent, for purposes of complying with FinCEN's CDD rule.

*Privacy safeguards*

Subsection (a)(5)(C) includes robust privacy safeguards for FinCEN's database of beneficial ownership information—to which law enforcement agencies will have access under subparagraph (B)—which are modeled after FinCEN's privacy safeguards for its Suspicious Activity Report database (known as FinCEN Query).

Specifically, subsection (a)(5)(C) requires that the protocols through which law enforcement agencies can access FinCEN's beneficial ownership information must:

1. Protect the privacy of any beneficial ownership information;
2. Ensure that any law enforcement agency requesting beneficial ownership information from FinCEN have an existing investigatory basis for its request;
3. Ensure that only authorized users at law enforcement agencies (who have undergone appropriate training) have access to the database and that their authorized user status is verified through appropriate mechanisms such as two-factor authentication;
4. Include an audit trail of every law enforcement agency's requests for beneficial ownership information; and
5. Require annual audits by FinCEN and by each law enforcement agency that has access to the beneficial ownership database, to ensure that those agencies are using the beneficial ownership information appropriately. These audits are intended to be similar to the annual inspections that FinCEN currently conducts of law enforcement agencies that have access to BSA data through the FinCEN Portal/FinCEN Query system.

Further, subsection (a)(5)(C) prohibits any beneficial ownership information provided to law enforcement agencies by FinCEN from being used for inappropriate reasons, by stating that such beneficial ownership information may only be used for law enforcement, national security, or intelligence purposes.

*Enforcement measures*

Subsection (b) of the new section 5333 prohibits certain companies from issuing bearer shares.

Subsection (c) of the new section 5333 provides that it is unlawful for anyone to:

1. Knowingly<sup>5</sup> file false beneficial ownership information to FinCEN;
2. Willfully<sup>6</sup> fail to provide complete or updated beneficial ownership information to FinCEN; or

<sup>5</sup> Black's Law Dictionary defines "knowingly" as: "In such a manner that the actor engaged in prohibited conduct with the knowledge that the social harm that the law was designed to prevent was practically certain to result; deliberately." See Black's Law Dictionary (10th ed. 2014).

<sup>6</sup> Black's Law Dictionary defines "willful" as: "Voluntary and intentional, but not necessarily malicious." *Id.*

3. Knowingly disclose the existence of a subpoena or other request for beneficial ownership information (except to the extent necessary to fulfill the authorized request for beneficial ownership information, or if the agency issuing the subpoena or request authorized the disclosure).

Importantly, Subsection (c) also explicitly states that negligent violations are not penalized.

Violations of this subsection are subject to a civil penalty of not more than \$10,000, or criminal penalties under title 18 of the U.S. Code, which can include fines and imprisonment for not more than 3 years.

Subsection (c) also creates a waiver process for violations that are due to reasonable cause and not due to willful neglect, which is modeled on the Internal Revenue Service (IRS) waiver process for companies' SS-4 filings.

Finally, subsection (c) provides strict penalties for misuse or unauthorized disclosure by government employees of beneficial ownership information collected by FinCEN. These penalties, which are identical to the penalties for unauthorized disclosure of Suspicious Activity Reports (SARs), include criminal penalties of up to \$250,000 and imprisonment for not more than 5 years.

#### *Definitions*

Subsection (d) of the new section 5333 defines key terms in the bill, the most important of which are listed below.

Paragraph (1) provides that the term "applicant" means any natural person who files an application to form a company under state or tribal law.

Paragraph (3) provides that the term "beneficial owner" means a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise:

1. Exercises substantial control over a company;
  2. Owns 25% or more of the equity interests of a company;
- or
3. Receives substantial economic benefits from the assets of a company.

Paragraph (3) also provides that a person receives "substantial economic benefits" from a company if the person has an entitlement to more than a specified percentage of the funds or assets of the company, which Treasury is required to establish by promulgating a rule.

Paragraph (3) also provides that a "beneficial owner" does not include: a minor child; a person acting as an agent, nominee, intermediary, or custodian on behalf of another person; a person acting solely as an employee of the company; a person with mere inheritance rights in a company; or a mere creditor of a company.

Paragraph (4) provides that the terms "corporation" and "limited liability company" have the meanings given to those terms under the applicable state laws.

Paragraph (4) also provides that the following entities are *exempt* from the definitions of "corporation" and "limited liability company":

1. Public companies under the Securities Exchange Act of 1934;



2. Federally chartered entities, and entities sponsored or chartered under an interstate compact between two or more states;
3. Depository institutions;
4. Credit unions;
5. Bank holding companies and savings and loan holding companies;
6. SEC-registered broker-dealers, exchanges, clearing agencies, investment advisers, investment companies, and exempt reporting advisers;
7. State-regulated insurance companies and insurance agents and brokers;
8. CFTC-registered futures commission merchants (FCMs), introducing brokers, commodity pool operators, and commodity trading advisors (CTAs);
9. PCAOB-registered public accounting firms;
10. Public utilities;
11. Churches, charities, nonprofit entities, and any other entity that qualifies for tax-exempt status under sections 501(a), 527, or 4947(a)(1) of the Internal Revenue Code;
12. Systemically important financial market utilities (SIFMUs);
13. Any company in the U.S. that has more than:
  - a. 20 employees in the U.S.; and
  - b. \$5 million in annual gross receipts or sales;
14. Any company formed and owned by an exempt entity; and
15. Any company or class of companies that the Treasury Secretary and the Attorney General jointly determine should be exempt from the beneficial ownership reporting requirements in this bill.

*Rulemaking, funding, and requirements on Federal contractors*

Subsection (a)(2) of section 3 authorizes Treasury to issue regulations to carry out this Act.

Subsection (a)(2) also requires Treasury, within one year, to revise the Customer Due Diligence rule, in order to: bring the rule into conformance with this Act; account for the fact that financial institutions have access to comprehensive, high-quality beneficial ownership information under this Act; and reduce any burdens on financial institutions that are, because of the new beneficial ownership reporting system established by this Act, now unnecessary or duplicative.

Subsection (b) of section 3 authorizes \$30 million in funding from the Treasury Forfeiture Fund, and \$10 million in funding from the Department of Justice Asset Forfeiture Fund, to carry out this Act.

Subsection (c) of Section 3 requires the Administrator for Federal Procurement Policy to require any contractor or subcontractor that is required to file beneficial ownership information under this Act to also file the same beneficial ownership information with the Federal Government as part of its bid or proposal for a contract.

*Section 4. Studies and reports*

This section requires three studies:

Subsection (a) requires the Treasury Secretary, in consultation with the Attorney General to study the necessity and burden of requiring companies to file updates with FinCEN when a change in beneficial ownership occurs in between the required annual filings. Within one year of enactment, the Treasury Secretary shall submit a report to Congress on the findings of the study.

Subsection (b) requires the General Accounting Office (GAO), within 2 years of the enactment of this Act, to study whether the lack of beneficial ownership information for partnerships, trusts, or other legal entities raises concerns about the involvement of those entities in money laundering and other misconduct.

Subsection (c) requires the GAO, within 5 years of enactment of this Act, to study how effective the beneficial ownership reporting requirements in this Act have been in providing law enforcement with timely access to reliable and useful beneficial ownership information, and whether such access has helped law enforcement agencies combat money laundering and other misconduct.

#### *Section 5. Definitions*

This section clarifies that the definitions of “beneficial owner,” “corporation,” and “limited liability company” in this Act have the same meaning as in the new 31 U.S.C. § 5333(d) added by this Act.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress—

1. The Committee on Financial Services held a hearing to consider a discussion draft of H.R. 2513 entitled ‘Promoting Corporate Transparency: Examining Legislative Proposals to Detect and Deter Financial Crime’ on March 13, 2019. Testifying on the panel was: Mr. Jacob Cohen, former Director, Office of Stakeholder Engagement, FinCEN; Mr. Dennis M. Lormel, President and Chief Executive Officer, DML Associates, LLC; Mr. Amit Sharma, Chief Executive Officer, FinClusive; and Dr. Gary Shiffman, Founder and Chief Executive Officer, Giant Oak, Inc.

2. In addition, in the 115th Congress, the Committee held a related joint hearing with the Subcommittee on Terrorism and Illicit Finance to consider H.R. 2219, the “Counter Terrorism and Illicit Finance Act” entitled, ‘Legislative Proposals to Counter Terrorism and Illicit Finance’ on November 29, 2017. Testifying on the panel was: Mr. Daniel H. Bley, Executive Vice President and Chief Risk Officer, Webster Bank, on behalf of the Mid-Size Bank Coalition of America; Mr. John J. Byrne, President, Condor Consulting LLC; Mr. William J. Fox, Managing Director, Global Head of Financial Crimes Compliance, Bank of America, on behalf of The Clearing House; Ms. Stefanie Ostfeld, Deputy Head of US Office, Global Witness; and Mr. Chip Poncy, President and Co-Founder, Financial Integrity Network.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 12, 2019, and ordered H.R. 2513 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 43 yeas and 16 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2513.

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meeks		X
	Mr. Clay		X
	Mr. Scott		X
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		X
	Mr. Himes		X
	Mr. Foster		X
	Mrs. Beatty		X
	Mr. Heck		X
	Mr. Vargas		X
	Mr. Gottheimer		X
	Mr. Gonzalez (TX)		
	Mr. Lawson		X
	Mr. San Nicolas		
	Ms. Tlaib		X
	Ms. Porter		
	Ms. Axne		X
	Mr. Casten		
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard	X	
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		
34			
	Mr. McHenry, <i>Ranking Member</i>	X	
	Ms. Wagner	X	
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
26			

**Committee on Financial Services**  
Full Committee  
116th Congress (1st Session)

Date: 6/11/2019

Measure \_ H.R. 2513

Amendmer Id.

Offered by Davidson #78

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	25 Ayes-29 Noes

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meeks		X
	Mr. Clay		X
	Mr. Scott		X
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		X
	Mr. Himes		X
	Mr. Foster		X
	Mrs. Beatty		X
	Mr. Heck		X
	Mr. Vargas		X
	Mr. Gottheimer		X
	Mr. Gonzalez (TX)		X
	Mr. Lawson		X
	Mr. San Nicolas		X
	Ms. Tlaib		X
	Ms. Porter		X
	Ms. Axne		X
	Mr. Casten		X
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard		X
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		X
34			
	Mr. McHenry, <i>Ranking Member</i>		X
	Ms. Wagner		X
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey	X	
	Mr. Luetkemeyer		X
	Mr. Huizenga		X
	Mr. Duffy		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams		X
	Mr. Hill		X
	Mr. Emmer	X	
	Mr. Zeldin		X
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff		X
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose	X	
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman	X	
26			

**Committee on Financial Services**  
Full Committee  
116th Congress (1st Session)

Date: \_\_\_ 6/11/2019

Measure \_ H.R. 2513

Amendmet 1f.

Offered by Davidson #66

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	8 Ayes-50 Noes

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck	X	
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas	X	
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard	X	
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
34			
	Mr. McHenry, <i>Ranking Member</i>		X
	Ms. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey		X
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams	X	
	Mr. Hill		X
	Mr. Emmer		X
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney		X
	Mr. Davidson		X
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose		X
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman		X
26			

**Committee on Financial Services**  
Full Committee  
116th Congress (1st Session)

Date: \_\_\_ 6/11/2019

Measure \_ Final passage of H.R. 2513, as amended

Amendment No. \_\_\_\_\_

Offered by: \_\_\_\_\_

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	43 Ayes-16 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 2513 are to require corporations and limited liability corporations to disclose their true "beneficial owners" to the Financial Crime Enforcement Network at the time a company is formed and in annual filings.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 2513 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 12, 2019.*

Hon. MAXINE WATERS,  
*Chairwoman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2513, the Corporate Transparency Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 2513, Corporate Transparency Act of 2019			
As ordered reported by the House Committee on Financial Services on June 11, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Deficit Effect	0	*	*
Spending Subject to Appropriation (Outlays)	0	132	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Over Threshold
* = between -\$500,000 and \$500,000			

The bill would

- Require certain companies to provide information annually to the Financial Crimes Enforcement Network (FinCEN)
- Require FinCEN to inspect certain law enforcement agencies
- Establish civil and criminal fines for violations of the bill’s provisions
- Require states to notify some applicants for corporation and limited liability corporation (LLC) status of new requirements to identify beneficial owners of the corporation
- Prohibit some newly formed corporations and LLCs from issuing bearer shares (equity securities wholly owned by the holder of the physical stock certificate)
- Require corporations and LLCs to provide beneficial ownership information annually to FinCen

Estimated budgetary effects would primarily stem from

- Costs to FinCEN to hire additional employees to carry out the bill’s provisions

Areas of significant uncertainty include

- The number of new annual filings with FinCEN that would result from enactment of the bill

Bill summary: H.R. 2513 would require certain corporations and limited liability companies, or applicants to form such entities, to provide information to the Financial Crimes Enforcement Network annually. Violators of the bill’s provisions would be subject to civil and criminal penalties.

Estimated federal cost: The estimated budgetary effect of H.R. 2513 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2513 <sup>a</sup>

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019–2024
Estimated Authorization .....	0	26	27	27	28	28	136



TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2513 <sup>a</sup>—Continued

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019– 2024
Estimated Outlays	0	23	26	27	28	28	132

<sup>a</sup> In addition to the amounts above, CBO estimates that enacting H.R. 2513 would have insignificant effects on revenues and direct spending in each year and over the five and ten-year periods.

Basis of estimate: CBO assumes that the legislation will be enacted near the end of 2019 and that the necessary amounts will be provided each year. Estimated outlays are based on historical spending patterns for similar activities.

Direct spending: H.R. 2513 would make the funds available to FinCEN for the agency to implement the bill's provisions, as follows:

- Up to \$30 million of unobligated balances from the Treasury Forfeiture Fund, and;
- Up to \$10 million of unobligated balances from the Department of Justice Assets Forfeiture Fund.

CBO's May 2019 baseline projects that both forfeiture funds will obligate and outlay all of their available balances over a period of several years. FinCEN expects that it would have to update and expand its information technology systems to carry out the bill and, based on information from the agency, CBO estimates that those one-time costs would total about \$40 million. CBO expects those funds would be provided to FinCEN from the forfeiture funds as directed by the bill. Because those funds would have otherwise been spent under current law, we estimate that enacting the bill could affect the timing of outlays but would not increase direct spending over the 2020–2029 period.

Violators of the bill's reporting requirements could be subject to civil and criminal penalties, so enacting H.R. 2513 could increase collections of fines. Civil fines are recorded in the budget as revenues. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation. CBO estimates that any additional collections would not be significant in any year and over the 2020–2029 period because of the relatively small number of additional cases likely to be affected.

Spending subject to appropriation: H.R. 2513 would require certain corporations and limited liability companies, or applicants to form such entities, to provide information annually to FinCEN about the ownership of such entities. Most of the entities that would be affected by the bill are small businesses that currently are not required to report to FinCEN.

FinCEN currently receives about 20 million filings each year from companies and spends about \$23 million annually to collect, store, analyze, and disseminate this information. Upon enactment of H.R. 2513, the agency expects to receive an additional 25 million to 30 million filings each year. On that basis, CBO estimates that the agency would need an appropriation of \$25 million in 2020 to hire additional personnel to handle the new filings; those costs would grow each year because of expected increases in inflation.

In addition, the new information provided to FinCEN would be available to law enforcement agencies, upon request, and the bill would require FinCEN to conduct an annual inspection of each such agency to ensure that the requests are legitimate and that the information is used appropriately. FinCEN expects that it would need to hire five new employees to carry out the additional inspection and liaison activities with the law enforcement community. CBO estimates that the new employees would cost about \$1 million annually.

In total, CBO estimates that implementing H.R. 2513 would cost \$132 million over the 2020–2024 period for additional FinCEN activities.

**Uncertainty:** The cost to FinCEN to implement the bill depends largely on the number of businesses that would be required to file with the agency under H.R. 2513. The budgetary effect of the bill could be different if the number of such filings differs significantly from CBO's estimate.

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 2513 would have insignificant effects on direct spending and revenues in each year, over the 2019–2024 period, and over the 2019–2029 period.

**Increase in long-term deficits:** None.

**Mandates:** H.R. 2513 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandate on public entities would fall below the threshold established in UMRA (\$82 million in 2019, adjusted annually for inflation). CBO estimates that the cost of the mandates on private-sector entities, however, would exceed the threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

**Mandates that apply to public entities:** H.R. 2513 would require states to notify entities applying to form a corporation or an LLC of new requirements to report information about beneficial owners. CBO expects that states would include the notification in materials provided to applicants for corporate or LLC designations and that the cost to update those materials would be small.

**Mandates that apply to private entities:** H.R. 2513 would prohibit a new corporation or LLC formed under state or tribal laws from issuing bearer shares. (Bearer shares are equity securities wholly owned by the holder of the physical stock certificate. Issuers of bearer shares do not register the owner of the shares or track ownership transfers.) Because the prohibition would not affect existing bearer shares and would simply prohibit new shares from being issued, CBO estimates the cost of the mandate would be small.

The bill also would require corporations or LLCs formed under state or tribal laws to report the identity of beneficial owners to FinCEN and to annually update that information. CBO anticipates the bill would generate approximately 25 million to 30 million new filings each year. Because of the high volume of businesses that must meet the new reporting requirements and the additional administrative burden to file a new report, CBO estimates that the total costs to comply with the mandate would be substantial.

Estimate prepared by: Federal costs: Mark Grabowicz; Mandates: Rachel Austin.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; Susan Willie, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2513. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 2513, as amended, prepared by the Director of the Congressional Budget Office.

#### ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1, H.R. 2513, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

#### EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2513 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2513 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## CHANGES TO EXISTING LAW

In compliance with clause 3(e) of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 2513, as reported, are shown as follows:

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**TITLE 31, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE IV—MONEY**

\* \* \* \* \*

**PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY**

\* \* \* \* \*

**CHAPTER 53—MONETARY TRANSACTIONS**

## SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

Sec.

5301. Buying obligations of the United States Government.

\* \* \* \* \*

## SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

\* \* \* \* \*

5333. *Transparent incorporation practices.*

\* \* \* \* \*

## SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

\* \* \* \* \*

**§ 5321. Civil penalties**

(a)(1) A domestic financial institution or nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except [sections 5314 and 5315] *sections 5314, 5315, and 5333* of this title or a regulation prescribed under [sections 5314 and 5315] *sections 5314, 5315, and 5333*), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, is liable to the United States Government for a civil penalty of not

more than the greater of the amount (not to exceed \$100,000) involved in the transaction (if any) or \$25,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than \$10,000.

(4) STRUCTURED TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of section 5324.

(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States in connection with the transaction with respect to which such penalty is imposed.

(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

(B) AMOUNT OF PENALTY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed \$10,000.

(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

- (I) such violation was due to reasonable cause, and
- (II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

- (i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—
  - (I) \$100,000, or

- (II) 50 percent of the amount determined under subparagraph (D), and  
(ii) subparagraph (B)(ii) shall not apply.
- (D) AMOUNT.—The amount determined under this subparagraph is—  
(i) in the case of a violation involving a transaction, the amount of the transaction, or  
(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.
- (6) NEGLIGENCE.—  
(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than \$500 on any financial institution or nonfinancial trade or business which negligently violates any provision of this subchapter (*except section 5333*) or any regulation prescribed under this subchapter (*except section 5333*).  
(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution or nonfinancial trade or business engages in a pattern of negligent violations of any provision of this subchapter (*except section 5333*) or any regulation prescribed under this subchapter (*except section 5333*), the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than \$50,000 on the financial institution or nonfinancial trade or business.
- (7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS.—The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.
- (b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—  
(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.  
(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—  
(A) the date the penalty was assessed; or  
(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.
- (c) The Secretary may remit any part of a forfeiture under subsection (c) or (d) of section 5317 of this title or civil penalty under subsection (a)(2) of this section.
- (d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.

(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

**§ 5322. Criminal penalties**

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except [section 5315 or 5324] *section 5315, 5324, or 5333* of this title or a regulation prescribed under [section 5315 or 5324] *section 5315, 5324, or 5333*), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508, shall be fined not more than \$250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except [section 5315 or 5324] *section 5315, 5324, or 5333* of this title or a regulation prescribed under [section 5315 or 5324] *section 5315, 5324, or 5333*), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508, while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 10 years, or both.

(c) For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in

an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000.

\* \* \* \* \*

**§ 5333 Transparent incorporation practices**

(a) *REPORTING REQUIREMENTS.*—

(1) *BENEFICIAL OWNERSHIP REPORTING.*—

(A) *IN GENERAL.*—*Each applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe shall file a report with FinCEN containing a list of the beneficial owners of the corporation or limited liability company that—*

*(i) except as provided in paragraphs (3) and (4), and subject to paragraph (2), identifies each beneficial owner by—*

*(I) full legal name;*

*(II) date of birth;*

*(III) current residential or business street address; and*

*(IV) a unique identifying number from a non-expired passport issued by the United States, a non-expired personal identification card, or a non-expired driver's license issued by a State; and*

*(ii) if the applicant is not a beneficial owner, also provides the identification information described in clause (i) relating to such applicant.*

(B) *UPDATED INFORMATION.*—*Each corporation or limited liability company formed under the laws of a State or Indian Tribe shall—*

*(i) submit to FinCEN an annual filing containing a list of—*

*(I) the current beneficial owners of the corporation or limited liability company and the information described in subparagraph (A) for each such beneficial owner; and*

*(II) any changes in the beneficial owners of the corporation or limited liability company during the previous year; and*

*(ii) pursuant to any rule issued by the Secretary of the Treasury under subparagraph (C), update the list of the beneficial owners of the corporation or limited liability company within the time period prescribed by such rule.*

(C) *RULEMAKING ON UPDATING INFORMATION.*—*Not later than 9 months after the completion of the study required under section 4(a)(1) of the Corporate Transparency Act of 2019, the Secretary of the Treasury shall consider the findings of such study and, if the Secretary determines it to be necessary or appropriate, issue a rule requiring corporations and limited liability companies to update the list of the beneficial owners of the corporation or limited liability company within a specified amount of time after the date of any change in the list of beneficial owners or the information required to be provided relating to each beneficial owner.*



*(D) STATE NOTIFICATION.—Each State in which a corporation or limited liability company is being formed shall notify each applicant of the requirements listed in subparagraphs (A) and (B).*

*(2) CERTAIN BENEFICIAL OWNERS.—If an applicant to form a corporation or limited liability company or a beneficial owner, or similar agent of a corporation or limited liability company who is required to provide identification information under this subsection, does not have a nonexpired passport issued by the United States, a nonexpired personal identification card, or a non-expired driver’s license issued by a State, each such person shall provide to FinCEN the full legal name, current residential or business street address, a unique identifying number from a non-expired passport issued by a foreign government, and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for each beneficial owner, and each application described in paragraph (1)(A) and each update described in paragraph (1)(B) shall include a written certification by a person residing in the State or Indian country under the jurisdiction of the Indian Tribe forming the entity that the applicant, corporation, or limited liability company—*

*(A) has obtained for each such beneficial owner, a current residential or business street address and a legible and credible copy of the pages of a non-expired passport issued by the government of a foreign country bearing a photograph, date of birth, and unique identifying information for the person;*

*(B) has verified the full legal name, address, and identity of each such person;*

*(C) will provide the information described in subparagraph (A) and the proof of verification described in subparagraph (B) upon request of FinCEN; and*

*(D) will retain the information and proof of verification under this paragraph until the end of the 5-year period beginning on the date that the corporation or limited liability company terminates under the laws of the State or Indian Tribe.*

*(3) EXEMPT ENTITIES.—*

*(A) IN GENERAL.—With respect to an applicant to form a corporation or limited liability company under the laws of a State or Indian Tribe, if such entity is described in subparagraph (C) or (D) of subsection (d)(4) and will be exempt from the beneficial ownership disclosure requirements under this subsection, such applicant, or a prospective officer, director, or similar agent of the applicant, shall file a written certification with FinCEN—*

*(i) identifying the specific provision of subsection (d)(4) under which the entity proposed to be formed would be exempt from the beneficial ownership disclosure requirements under paragraphs (1) and (2);*

*(ii) stating that the entity proposed to be formed meets the requirements for an entity described under such provision of subsection (d)(4); and*

(iii) providing identification information for the applicant or prospective officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

(B) *EXISTING CORPORATIONS OR LIMITED LIABILITY COMPANIES.*—On and after the date that is 2 years after the final regulations are issued to carry out this section, a corporation or limited liability company formed under the laws of the State or Indian Tribe before such date shall be subject to the requirements of this subsection unless an officer, director, or similar agent of the entity submits to FinCEN a written certification—

(i) identifying the specific provision of subsection (d)(4) under which the entity is exempt from the requirements under paragraphs (1) and (2);

(ii) stating that the entity meets the requirements for an entity described under such provision of subsection (d)(4); and

(iii) providing identification information for the officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

(C) *EXEMPT ENTITIES HAVING OWNERSHIP INTEREST.*—If an entity described in subparagraph (C) or (D) of subsection (d)(4) has or will have an ownership interest in a corporation or limited liability company formed or to be formed under the laws of a State or Indian Tribe, the applicant, corporation, or limited liability company in which the entity has or will have the ownership interest shall provide the information required under this subsection relating to the entity, except that the entity shall not be required to provide information regarding any natural person who has an ownership interest in, exercises substantial control over, or receives substantial economic benefits from the entity.

(4) *FINCEN ID NUMBERS.*—

(A) *ISSUANCE OF FINCEN ID NUMBER.*—

(i) *IN GENERAL.*—FinCEN shall issue a FinCEN ID number to any individual who requests such a number and provides FinCEN with the information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

(ii) *UPDATING OF INFORMATION.*—An individual with a FinCEN ID number shall submit an annual filing with FinCEN updating any information described under subclauses (I) through (IV) of paragraph (1)(A)(i).

(B) *USE OF FINCEN ID NUMBER IN REPORTING REQUIREMENTS.*—Any person required to report the information described under paragraph (1)(A)(i) with respect to an individual may instead report the FinCEN ID number of the individual.

(C) *TREATMENT OF INFORMATION SUBMITTED FOR FINCEN ID NUMBER.*—For purposes of this section, any information

*submitted under subparagraph (A) shall be deemed to be beneficial ownership information.*

(5) **RETENTION AND DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION BY FINCEN.**—

(A) **RETENTION OF INFORMATION.**—*Beneficial ownership information relating to each corporation or limited liability company formed under the laws of the State or Indian Tribe shall be maintained by FinCEN until the end of the 5-year period (or such other period of time as the Secretary of the Treasury may, by rule, determine) beginning on the date that the corporation or limited liability company terminates.*

(B) **DISCLOSURE OF INFORMATION.**—*Beneficial ownership information reported to FinCEN pursuant to this section shall be provided by FinCEN only upon receipt of—*

*(i) subject to subparagraph (C), a request, through appropriate protocols, by a local, Tribal, State, or Federal law enforcement agency;*

*(ii) a request made by a Federal agency on behalf of a law enforcement agency of another country under an international treaty, agreement, or convention, or an order under section 3512 of title 18 or section 1782 of title 28; or*

*(iii) a request made by a financial institution, with customer consent, as part of the institution's compliance with due diligence requirements imposed under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable Federal, State, or Tribal law.*

(C) **APPROPRIATE PROTOCOLS.**—

*(i) PRIVACY.*—*The protocols described in subparagraph (B)(i) shall—*

*(I) protect the privacy of any beneficial ownership information provided by FinCEN to a local, Tribal, State, or Federal law enforcement agency;*

*(II) ensure that a local, Tribal, State, or Federal law enforcement agency requesting beneficial ownership information has an existing investigatory basis for requesting such information;*

*(III) ensure that access to beneficial ownership information is limited to authorized users at a local, Tribal, State, or Federal law enforcement agency who have undergone appropriate training, and that the identity of such authorized users is verified through appropriate mechanisms, such as two-factor authentication;*

*(IV) include an audit trail of requests for beneficial ownership information by a local, Tribal, State, or Federal law enforcement agency, including, as necessary, information concerning queries made by authorized users at a local, Tribal, State, or Federal law enforcement agency;*

*(V) require that every local, Tribal, State, or Federal law enforcement agency that receives beneficial ownership information from FinCEN conducts an annual audit to verify that the beneficial*

ownership information received from FinCEN has been accessed and used appropriately, and consistent with this paragraph; and

(VI) require FinCEN to conduct an annual audit of every local, Tribal, State, or Federal law enforcement agency that has received beneficial ownership information to ensure that such agency has requested beneficial ownership information, and has used any beneficial ownership information received from FinCEN, appropriately, and consistent with this paragraph.

(ii) **LIMITATION ON USE.**—Beneficial ownership information provided to a local, Tribal, State, or Federal law enforcement agency under this paragraph may only be used for law enforcement, national security, or intelligence purposes.

(b) **NO BEARER SHARE CORPORATIONS OR LIMITED LIABILITY COMPANIES.**—A corporation or limited liability company formed under the laws of a State or Indian Tribe may not issue a certificate in bearer form evidencing either a whole or fractional interest in the corporation or limited liability company.

(c) **PENALTIES.**—

(1) **IN GENERAL.**—It shall be unlawful for any person to affect interstate or foreign commerce by—

(A) knowingly providing, or attempting to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph, to FinCEN in accordance with this section;

(B) willfully failing to provide complete or updated beneficial ownership information to FinCEN in accordance with this section; or

(C) knowingly disclosing the existence of a subpoena or other request for beneficial ownership information reported pursuant to this section, except—

(i) to the extent necessary to fulfill the authorized request; or

(ii) as authorized by the entity that issued the subpoena, or other request.

(2) **CIVIL AND CRIMINAL PENALTIES.**—Any person who violates paragraph (1)—

(A) shall be liable to the United States for a civil penalty of not more than \$10,000; and

(B) may be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

(3) **LIMITATION.**—Any person who negligently violates paragraph (1) shall not be subject to civil or criminal penalties under paragraph (2).

(4) **WAIVER.**—The Secretary of the Treasury may waive the penalty for violating paragraph (1) if the Secretary determines that the violation was due to reasonable cause and was not due to willful neglect.

(5) **CRIMINAL PENALTY FOR THE MISUSE OR UNAUTHORIZED DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION.**—The criminal penalties provided for under section 5322 shall apply to a violation of this section to the same extent as such criminal

penalties apply to a violation described in section 5322, if the violation of this section consists of the misuse or unauthorized disclosure of beneficial ownership information.

(d) DEFINITIONS.—For the purposes of this section:

(1) APPLICANT.—The term “applicant” means any natural person who files an application to form a corporation or limited liability company under the laws of a State or Indian Tribe.

(2) BANK SECRECY ACT.—The term “Bank Secrecy Act” means—

- (A) section 21 of the Federal Deposit Insurance Act;
- (B) chapter 2 of title I of Public Law 91-508; and
- (C) this subchapter.

(3) BENEFICIAL OWNER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “beneficial owner” means a natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

(i) exercises substantial control over a corporation or limited liability company;

(ii) owns 25 percent or more of the equity interests of a corporation or limited liability company; or

(iii) receives substantial economic benefits from the assets of a corporation or limited liability company.

(B) EXCEPTIONS.—The term “beneficial owner” shall not include—

(i) a minor child, as defined in the State or Indian Tribe in which the entity is formed;

(ii) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

(iii) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;

(iv) a person whose only interest in a corporation or limited liability company is through a right of inheritance; or

(v) a creditor of a corporation or limited liability company, unless the creditor also meets the requirements of subparagraph (A).

(C) SUBSTANTIAL ECONOMIC BENEFITS DEFINED.—

(i) IN GENERAL.—For purposes of subparagraph (A)(ii), a natural person receives substantial economic benefits from the assets of a corporation or limited liability company if the person has an entitlement to more than a specified percentage of the funds or assets of the corporation or limited liability company, which the Secretary of the Treasury shall, by rule, establish.

(ii) RULEMAKING CRITERIA.—In establishing the percentage under clause (i), the Secretary of the Treasury shall seek to—

- (I) provide clarity to corporations and limited liability companies with respect to the identification and disclosure of a natural person who receives

*substantial economic benefits from the assets of a corporation or limited liability company; and*

*(II) identify those natural persons who, as a result of the substantial economic benefits they receive from the assets of a corporation or limited liability company, exercise a dominant influence over such corporation or limited liability company.*

(4) CORPORATION; LIMITED LIABILITY COMPANY.—*The terms “corporation” and “limited liability company”—*

*(A) have the meanings given such terms under the laws of the applicable State or Indian Tribe;*

*(B) include any non-United States entity eligible for registration or registered to do business as a corporation or limited liability company under the laws of the applicable State or Indian Tribe;*

*(C) do not include any entity that is—*

*(i) a business concern that is an issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d));*

*(ii) a business concern constituted, sponsored, or chartered by a State or Indian Tribe, a political subdivision of a State or Indian Tribe, under an interstate compact between two or more States, by a department or agency of the United States, or under the laws of the United States;*

*(iii) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));*

*(iv) a credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));*

*(v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) or a savings and loan holding company (as defined in section 10(a) of the Home Owners’ Loan Act (12 U.S.C. 1467a(a));*

*(vi) a broker or dealer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o);*

*(vii) an exchange or clearing agency (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 6 or 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78f and 78q-1);*

*(viii) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) or an investment adviser (as defined in section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11))), if the company or adviser is registered with the Securities and Exchange Commission, has filed an application for registration which has not been denied, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) or the Investment Adviser Act of 1940 (15 U.S.C. 80b-1 et seq.), or is an in-*

vestment adviser described under section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(l));

(ix) an insurance company (as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2));

(x) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), or a futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is registered with the Commodity Futures Trading Commission;

(xi) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act (15 U.S.C. 7212) or an entity controlling, controlled by, or under common control of such a firm;

(xii) a public utility that provides telecommunications service, electrical power, natural gas, or water and sewer services, within the United States;

(xiii) a church, charity, nonprofit entity, or other organization that is described in section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, that has not been denied tax exempt status, and that has filed the most recently due annual information return with the Internal Revenue Service, if required to file such a return;

(xiv) a financial market utility designated by the Financial Stability Oversight Council under section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

(xv) an insurance producer (as defined in section 334 of the Gramm-Leach-Bliley Act);

(xvi) any business concern that—

(I) employs more than 20 employees on a full-time basis in the United States;

(II) files income tax returns in the United States demonstrating more than \$5,000,000 in gross receipts or sales; and

(III) has an operating presence at a physical office within the United States; or

(xvii) any corporation or limited liability company formed and owned by an entity described in this clause or in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), or (xvi); and

(D) do not include any individual business concern or class of business concerns which the Secretary of the Treasury and the Attorney General of the United States have jointly determined, by rule or otherwise, to be exempt from the requirements of subsection (a), if the Secretary and the Attorney General jointly determine that requiring beneficial ownership information from the business concern would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or prosecute terrorism, money laundering, tax evasion, or other misconduct.

(5) *FINCEN.*—The term “FinCEN” means the Financial Crimes Enforcement Network of the Department of the Treasury.

(6) *INDIAN COUNTRY.*—The term “Indian country” has the meaning given that term in section 1151 of title 18.

(7) *INDIAN TRIBE.*—The term “Indian Tribe” has the meaning given that term under section 102 of the Federally Recognized Indian Tribe List Act of 1994.

(8) *PERSONAL IDENTIFICATION CARD.*—The term “personal identification card” means an identification document issued by a State, Indian Tribe, or local government to an individual solely for the purpose of identification of that individual.

(9) *STATE.*—The term “State” means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

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## DISSENTING VIEWS

The undersigned view H.R. 2513, the *Corporate Transparency Act*, as another costly burden on those entities that can least afford it—Small Businesses.

H.R. 2513 institutes a new requirement that each corporation and limited liability company (LLC) submit beneficial ownership information, including names, dates of birth, addresses, driver's license information, and Social Security numbers directly with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) when an entity as defined by H.R. 2513 is formed and annually thereafter. A beneficial owner is defined by H.R. 2513 as: an individual owning 25 percent or more in equity; an individual who exercises substantial control over a corporation or LLC; or an individual who receives substantial economic benefit from the entity's assets. H.R. 2513 applies to corporations and LLCs with fewer than 20 employees; or that generate less than \$5,000,000 in annual gross receipts or sales. Failure to comply with H.R. 2513 could result in fines up to \$10,000 or up to three years in prison.

According to the National Federation of Independent Businesses, nearly 4 million American small businesses will be captured by H.R. 2513's arbitrary small business reporting threshold. In particular, the NFIB stated, "while large businesses and financial institutions may have access to teams of lawyers, accountants, and compliance experts to gather beneficial ownership information and report it to the government, small business owners do not. Small business owners cannot afford accounting and legal experts to help them understand and comply with the new federal reporting requirements. And small business owners lack the time to track and gather information to fill out yet more forms for the government."<sup>1</sup>

Moreover, H.R. 2513 fails to repeal and replace the Customer Due Diligence (CDD) rule, of which financial institutions have been critical. The supposed justification for this bill is the burden associated with implementing the CDD rule. However, CDD will continue to co-exist with H.R. 2513. The result could be a duplicative regulatory burden on millions of small businesses that do not have the internal infrastructure to meet these elevated compliance demands.

H.R. 2513 also raises significant privacy concerns. Sensitive and personally identifiable beneficial ownership information will be held in a new central federal repository. The repository will be accessible to local, Tribal, State, or Federal law enforcement agencies. However, H.R. 2513 does not require a subpoena or warrant to access this information. Additionally, the *Corporate Transparency Act* mandates that FinCEN disclose the information to any financial institution, as long as there is customer consent. To that end, Com-

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<sup>1</sup> <https://www.nfib.com/assets/04-18-19-Letter-to-Representative-Maloney-Draft-Corporate-Transparency-Act.pdf>

mittee Republicans are concerned this leaves personal information vulnerable to unaccountable individuals and third parties affiliated with the customer and unchecked law enforcement agencies. Furthermore, without safeguards in place to ensure confidentiality and safety of small business owner information, H.R. 2513 will leave personally identifiable information vulnerable to data breach and other cyber security risks.

Finally, Republicans remain concerned that H.R. 2513 is based on anecdote rather than data. To date, and despite multiple requests from the Ranking Member of the Committee and other Financial Services Committee Republicans, the Treasury Department, FinCEN, and the Department of Justice have failed to provide adequate data to demonstrate the need for the legislation. Moreover, those agencies have neglected to provide solutions to small business and privacy concerns raised by a bipartisan group of Committee members. Finally, in 2018, Committee Republicans requested the Government Accountability Office (GAO) to conduct a study on beneficial ownership and FinCEN's CDD rule. The GAO request followed two earlier GAO requests relating to Bank Secrecy Act and anti-money laundering implementation, costs, and benefits. GAO has yet to finalize these reports. Without fully understanding the small business threshold implications and how H.R. 2513 will protect against sophisticated money launders that can circumvent the beneficial ownership filing requirements by forming a business trust or partnership, both of which are exempted in H.R. 2513, Committee Republicans believe this legislation is premature. Finally, Republicans have yet to receive information on whether this legislation will assist law enforcement meet its aim of preventing, deterring, and responding to terrorism and illicit finance.

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