



October 21, 2019

## **Key Vote NO on the Corporate Transparency Act, H.R. 2513**

On behalf of our activist community, I urge you to contact your representative and ask him or her to vote NO on the Corporate Transparency Act, H.R. 2513. The Corporate Transparency Act is framed as legislation that would crack down on fraudulent shell companies and money laundering, but the bill would actually do little to do this, instead simply creating five new federal crimes for paperwork violations for all companies in America, unduly burdening perfectly legitimate businesses. Additionally, the bill may have long-term privacy implications.

The Corporate Transparency Act would amend the Bank Secrecy Act to require an applicant seeking to form a corporation or limited liability company (LLC) to disclose the “beneficial owners” of the entity. The applicant must also file an annual report with the Financial Crimes Enforcement Network (FinCEN) that lists any beneficial owners. The initial filing and the annual reports must include the full legal name of the beneficial owner, his or her date of birth, residential address or business address, and an identification number from either a passport, identification card or driver’s license.

Under this bill, the term “beneficial owner” is vague. Although one determination is objective — one owning “25 percent or more of the equity” of the business — the other two definitions are open for interpretation. Specifically, the bill would include as a beneficial owner an individual who “directly or indirectly...exercises substantial control” over of a corporation or LLC, or “receives substantial economic benefits from the assets” of the entity. The definition of “substantial economic benefit” is defined, but insufficiently so, leaving it open to later rulemaking and possible severe misinterpretation by unelected government bureaucrats.

Although there are some exceptions now provided — which had not been the case in the past versions of the bill — for people such as minor children, the definition of a beneficial owner still remains overly broad.

In May, FreedomWorks joined a letter with the Due Process Institute and the American Civil Liberties Union expressing concerns about the Corporate Transparency Act.<sup>1</sup> The letter noted the vague definition of a beneficial owner: “What does it mean to indirectly control an entity? The bill does not explain.”

What is perhaps most perplexing about the Corporate Transparency Act is that it targets small businesses by explicitly excluding businesses that have more than 20 employees and more than \$5 million in gross receipts or sales. The bill would create paperwork burdens for these small businesses that will be required to comply with the mandates of the bill.

Although larger corporations and LLCs do not need to file the beneficial ownership information, they would be required to make a separate filing to FinCEN explaining why the entity ought to be excluded from the requirement. In other words, every corporation or LLC will have to file some type of paperwork with FinCEN on an annual basis and be subject to civil and criminal penalties. In addition to businesses, the bill’s reporting requirements would also apply to certain small nonprofits, in an effort to mandate further donor disclosures.

With some 5,000 criminal statutes and an estimated 300,000 that carry criminal penalties, over-criminalization has been a growing concern. The Corporate Transparency Act would create five new federal crimes, but unelected bureaucracy likely will exacerbate the impact of those criminal penalties through the rulemaking authority that would be given to the Department of the Treasury. This rulemaking authority could potentially expand the requirements for businesses and, in turn, widen the scope of potential criminal liability.

Another aspect that members should consider is the intent of the Corporate Transparency Act. This bill will not be the end of this. Leftist groups want the names of beneficial owners published online. In May, a representative of the Financial Accountability and Corporate Transparency (FACT) Coalition told the Washington Post, “Every official member of our coalition agrees that this information should ultimately be made public.”<sup>2</sup> A quick look at the FACT Coalition’s membership reveals a long list of leftist groups, including the AFL-CIO, Citizens for Tax Justice, Fair Share, Friends of the Earth, and Public Citizen. Funding for the FACT Coalition comes from several sources, including the George Soros-founded Open Society Foundations.

FreedomWorks will count the vote on the Corporate Transparency Act, H.R. 2513, when calculating our Scorecard for 2019 and reserves the right to score any amendments and weight

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<sup>1</sup> Due Process Institute, “No Benefit to a Beneficial Ownership Reporting System That Increases America’s Over-Incarceration Problem and Fails to Adequately Protect Privacy,” May 2019  
<https://img1.wsimg.com/blobby/go/e92afdcc-9a38-4bb1-a4e7-44c54975c6b9/downloads/BO%20Hill%20Alert%20JUNE.pdf?ver=1571431175287>

<sup>2</sup> Jeanne Whalen, “Criminals and kleptocrats will find it harder to launder money in U.S. if bill passes,” The Washington Post, May 6, 2019  
[https://www.washingtonpost.com/business/economy/criminals-and-kleptocrats-will-find-it-harder-to-launder-money-in-the-us-if-this-bill-passes/2019/05/06/ad95fc46-7014-11e9-8be0-ca575670e91c\\_story.html](https://www.washingtonpost.com/business/economy/criminals-and-kleptocrats-will-find-it-harder-to-launder-money-in-the-us-if-this-bill-passes/2019/05/06/ad95fc46-7014-11e9-8be0-ca575670e91c_story.html)

any votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Brandon', with a stylized flourish at the end.

Adam Brandon  
President, FreedomWorks