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# CKR Financial Services

## monthly journal

HELPING OUR CLIENTS GAIN THE ADVANTAGE OVER THE COMPETITION

## Possible Repeal of the CTA

*The introduction of HR8147 means this legislative error may be overturned.*

We mentioned this bill in our April newsletter. The Corporate Transparency Act (CTA) was developed to detect illegal funds moving through the financial system and reduce criminal players in the marketplace. There are stiff penalties for non-compliance.

At issue is that many business owners have no idea what the Corporate Transparency Act is and the reporting burden is confusing while the fines for non-compliance are so stiff, they could close a legitimate small business.

The US House Committee on Small Business heard testimonies on April 30, 2024 from small business advocates who said the CTA's confusing requirements are burdensome on small businesses. Rep. Warren Davidson (R-Ohio) introduced HR8147 to repeal the CTA the day before the meeting. Rep. Dan Meuser, (R-Pennsylvania) led the discussion during the committee hearing.

“Nearly half of small business owners said they had no idea what the Corporate Transparency Act is and had never heard of the government agency FinCEN (which

oversees compliance of this legislation); suddenly they are getting something in the mail asking for personal information with the threat of massive fines if they do not comply,” Meuser said. “When some businesses have received these notices they’ve turned to their lawyers or accountants or Congressional offices for help to fulfill these requirements. However, we are hearing that the rules are written in a way that makes these trained professionals hesitant or unwilling to take on this task. This is a telling sign that something has gone wrong in implementing this law.”

As we mentioned before, there are some issues in this legislation that could require interpretation of facts, which gets into LEGAL territory, which is why CKR Financial Services will not be able to assist in this process. We are not allowed to engage in legal discussions or filings. We can only provide financial reports for our clients who are trying to file their data to stay in compliance. For clarification or filing requirements, please go to: <https://www.fincen.gov/boi>



Carol Roth, a small business expert and small business owner, made many outstanding points in her statement to the committee. “While preventing financial crimes is a worthwhile endeavor, your methods cannot do so in a way that infringes upon Americans’ natural rights or assumes that they are guilty without due process. Asking small businesses and their owners to report sensitive, personal information and identification to an organization involved in monitoring financial crimes unfortunately does just that. It is not only an invasion of privacy, but it also creates additional burdens and challenges for small business owners. And, once again, by exempting big businesses from this reporting rule, it specifically and unfairly targets and penalizes small business owners with a different standard and set of rules.”

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Roth cont'd -"Small businesses overall are not shell companies—they are the backbone of the economy. If FinCEN has concerns about money laundering, cartel activity or otherwise, they should be using the courts to receive information on those specific cases and entities. I imagine you would agree that it is highly unlikely that those who would engage in such cartel or money laundering activities would be forthcoming with the information FinCEN is seeking. Given that, the rule is ineffective (that is, cartels and money launderers won't be swayed to participate), while also unconstitutionally penalizing law-abiding Americans and infringing on their rights. If there's a concern about foreign entities, then the rule should focus on them exclusively. Moreover, the penalties, which include significant financial and criminal penalties, including jail time, are egregious. Plus, the rule exposes small business owners to fraud and privacy violations. In fact, the very first alert on the FinCEN BOI landing page, right in the center of the website, is an alert about fraudulent information solicitation attempts from third parties... The ends absolutely do not justify the means here. But the most important piece is the rule's unconstitutionality. A federal district court in Alabama has already found the CTA BOI rule

directed at small business reporting to be unconstitutional. Unfortunately, based on the ruling's scope, FinCEN is choosing to ignore this for everyone but the plaintiffs in that case- a peculiar outcome. If it is unconstitutional, it is unconstitutional- period- and should be immediately shut down. FinCEN has many tools at their disposal and a court system to help their efforts on financial crimes. They should use those tools and not harm a good portion of America's more than 33 million small businesses and their owners in the process. Good intentions don't always produce good outcomes, and this is a perfect example."

Gary Kalman, Transparency International executive director, took the opposite side by saying, "...Most states collect more information when granting public library cards than is required under the CTA..." But I would like to interject that the library doesn't fine you or threaten jail time if you do not apply for a library card. Kalman also said he didn't believe businesses would be found guilty of violating the law if they mistakenly failed to file or made errors in their reporting. Again, I would say that those provisions are directly cited in the legislation.

Alex Ford, S-Corporation Association executive director summed up Mr. Kalman's

"You get to decide where your time goes. You can either spend it moving forward, or you can spend it putting out fires. You decide. And if you don't decide, others will decide for you"

- Tony Morgan

"The future depends on what you do today."

-Mahatma Gandhi

"How wonderful it is that nobody needs to wait a single moment before starting to improve the world."

-Anne Frank

It's hard to beat a person who never gives up.

-Babe Ruth

testimony well by saying "The one witness in support had a main selling point that boiled down to, 'Don't worry, we won't throw you in jail.' Not very comforting given the millions of entities that will be non-compliant come year-end simply because they'd never heard of the CTA."

What can we do? Contact your elected representatives and ask them to support the repeal of the Corporate Transparency Act. Support HR8147.

You can find your Nevada representatives here:  
<https://www.govtrack.us/congress/members/NV>

If outside of Nevada, try this:  
<https://www.govtrack.us/>



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