



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

Testimony Submitted for the Record
House Committee on Financial Services
Subcommittee on National Security, Illicit Finance, and International Financial
Institutions
Hearing on Potential Consequences of FinCEN’s Beneficial Ownership Rulemaking
July 18, 2023
Gabe Lezra, Federal Policy Manager and Senior Counsel, Citizens for Responsibility and
Ethics in Washington

Chairman Luetkemeyer, Ranking Member Beatty, and members of the Subcommittee, thank you for the opportunity to submit testimony on the importance of ensuring the full implementation of the Corporate Transparency Act (“CTA”), the country’s landmark anti-corruption legislation. This hearing is an important step towards ensuring that the CTA, the first substantive improvement to the nation’s financial corruption regime in decades, is fully and faithfully implemented. It is an opportunity for Congress to hear about shortfalls in the CTA’s implementation, of which there are various, and to debate and develop a serious policy response to those deficiencies. It is our hope that this hearing results in a renewed commitment by Congress and the Financial Crimes Enforcement Network (“FinCEN”) to work collaboratively on the immense project of fighting corruption at home and abroad.

Citizens for Responsibility and Ethics in Washington (“CREW”) is a nonpartisan nonprofit organization committed to fighting corruption, protecting democracy, and building an ethical and accountable government. I write on behalf of CREW today to encourage you to seize this opportunity to improve and strengthen the CTA and its burgeoning regulatory regime.

Over the last thirty years, the United States has become a world leader in financial secrets and a haven for international corruption and dirty money—a development that has led outside observers to rank the United States as the world’s worst jurisdiction for financial secrets, worse even than notorious tax shelters like the Cayman Islands.¹ This reality was thrown into sharp relief by the bombshell revelations stemming from the Pandora Papers, a trove of financial and legal data leaked to the International Consortium of Investigative Journalists (“ICIJ”).² The Pandora Papers revealed a global financial system that remains completely unable to curtail the flow of corrupt money. At this system’s center is the United

¹ Tax Justice Network, “Financial Secrecy Index 2022: U.S. Country Profile,” *available at* <https://fsi.taxjustice.net/country-detail/#country=US&period=22>

² See International Consortium of Investigative Journalists, “Offshore havens and hidden riches of world leaders and billionaires exposed in unprecedented leak,” Oct. 3, 2021, *available at* <https://www.icij.org/investigations/pandora-papers/global-investigation-tax-havens-offshore/>.

States. The country's status as a haven for illicit finances has shaped the U.S. economy and had a real impact on U.S. citizens, from the South Dakota trusts that harbor alleged money launderers, to the luxury real estate boom driven by foreign kleptocrats and oligarchs—many of whom have ties to anti-democratic leaders—who park their wealth in Malibu mansions.³ This has the effect of driving up income and social inequality by allowing bad actors access to unlimited cash and even pricing out families from home ownership.⁴

Thankfully, the Biden Administration sees corruption as a core national security threat and fully implementing the CTA as a central part of its strategy to combat it.⁵ That is because the CTA empowers law enforcement to fight money laundering and terrorist financing by updating the United States' antiquated and woefully deficient corporate transparency laws. The CTA is the first step towards designing a truly state of the art legal regime to protect the nation from malicious actors intent on abusing our institutions to shelter their ill-gotten gains. It is a blueprint for a twenty-first century anti-money laundering regime that, if implemented, will revolutionize our country's ability to combat illicit finance, track corrupt cash flows through webs of shell companies and in so doing protect and strengthen our democracy. It benefits small businesses and banks by lessening their administrative burden to comply with anti-corruption measures by streamlining processes through the new CTA registry. And it gives law enforcement and national security agencies the tools they need to protect our country from bad actors who fund international terrorists and drug cartels through webs of opaque entities located in U.S. jurisdictions.

Most importantly, the CTA would transform the United States from one of the worst jurisdictions in the world for money laundering into one of the world's leaders in the fight against illicit finance. Now, Congress and FinCEN must work together to build a regulatory regime that rises to the level of the challenges we face.

³ See, e.g., Will Fitzgibbon, "While foreign aid poured in, Jordan's King Abdullah funnelled \$100m through secret companies to buy luxury homes," *ICIJ*, Oct. 3, 2021, available at <https://www.icij.org/investigations/pandora-papers/jordan-king-abdullah-luxury-property/>. See also, Adam Piore, "Russian Oligarchs Hide Money in Plain Sight in Luxury New York City Condos," *Newsweek*, Mar. 14, 2022, available at <https://www.newsweek.com/russian-oligarchs-hide-money-plain-sight-luxury-new-york-city-condos-1687503>.

⁴ Gabe Lezra, "U.S. Real Estate Secrecy Links Global Corruption, Domestic Inequality," *Just Security*, Mar. 23, 2022, available at <https://www.justsecurity.org/80790/u-s-real-estate-secrecy-links-global-corruption-domestic-inequality/>.

⁵ Memorandum on Establishing the Fight Against Corruption as a Core United States National Security Interest, Jun. 3, 2021, available at, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/memorandum-on-establishing-the-fight-against-corruption-as-a-core-united-states-national-security-interest/>; United States Strategy on Countering Corruption, Strategic Objective 2.1, Dec. 2021, available at <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

Unfortunately, the law's implementation is off to an uneven start with significant regulatory delays and resource constraints.⁶ Many of FinCEN's hiccups and missteps in the process of designing this sweeping regulatory regime are the same bumps in the road that every agency hits when tasked with designing major regulations. Rulemaking delays are common. Proper resource allocation is never easy. These are common, fixable issues.

Others are more concerning. While FinCEN's final rule implementing the CTA's reporting requirements was a triumphant first step in designing the beneficial ownership registry,⁷ its subsequent rulemakings have left much to be desired. Its proposed rule on access to the new registry and companies' beneficial ownership was deeply flawed,⁸ and the form that it proposed to collect that information was even worse.⁹ These are troubling developments and CREW has repeatedly called on FinCEN to address them and hope that they will do so before they issue any final rules.

FinCEN's missteps however should not be used as an excuse to undermine and weaken the CTA. Building an anti-corruption regime is a resource-intensive process—and Congress has not allocated FinCEN the resources it needs to succeed. Without money and personnel there will be mistakes. Unfortunately, industries opposed to the CTA are seizing on some regrettable missteps that have occurred, most of which have been caused by underfunding and poor resource allocation, to argue against the substance of the legislation.¹⁰ These

⁶ Spencer Woodman, "U.S. Treasury faces a wave of criticism over faltering push to unmask anonymous companies and track dirty money," *ICIJ*, Apr. 11, 2023, available at <https://www.icij.org/investigations/fincen-files/u-s-treasury-faces-a-wave-of-criticism-over-faltering-push-to-unmask-anonymous-companies-and-track-dirty-money/>.

⁷ Gabe Lezra, "FinCEN's rule implementing the Corporate Transparency Act is a victory," *CREW*, Sep. 30, 2022, available at <https://www.citizensforethics.org/news/analysis/fincens-final-rule-implementing-the-corporate-transparency-act-is-a-victory/>.

⁸ Comment of Citizens for Responsibility and Ethics in Washington in response to Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities, U.S. Financial Crimes Enforcement Network, RIN 1506-AB59, 87 Fed. Reg. 77404 (February 14, 2023), available at <https://www.citizensforethics.org/wp-content/uploads/2023/02/CREW-CTA-Access-to-Information-Comment-Feb.-2023.pdf>.

⁹ Comment of Citizens for Responsibility and Ethics in Washington in response to Agency Information Collection Activities; Proposed Collection; Comment Request; Beneficial Ownership Information Reports, U.S. Financial Crimes Enforcement Network, FINCEN-2023-0002, OMB control number 1506-0076, 88 Fed. Reg. 2760 (Jan. 17, 2023), available at <https://www.citizensforethics.org/wp-content/uploads/2023/03/CREW-CTA-Form-Comment-March-2023-.pdf>.

¹⁰ See, e.g., Dylan Tokar, "FinCEN's Corporate Ownership Rules Stir Debate From Banking, Small Business Groups," *Wall St. Journal*, Feb. 9, 2022, available at <https://www.wsj.com/articles/fincens-corporate-ownership-rules-stir-debate-from-banking-small-business-groups-11644429839>; and Comment of National Federation of Independent Business in response to Beneficial Ownership Reporting Requirements, U.S. Financial Crimes Enforcement Network, RIN 1506-AB59, 86 Fed. Reg. 69920 (Dec. 8, 2021), available at

arguments are disingenuous. Crucially, they do not point out substantive flaws with the CTA itself and therefore are not reasons to freeze implementation, or, worse yet, abandon the project entirely. On the contrary, they highlight why we need to expand FinCEN's funding, not cut it. We therefore encourage you not to be swayed by those who would seek to weaken this law in service of their personal financial interests and instead recommit to ensuring the law's full implementation and ending our country's status as a haven for ill-gotten gains.

CREW looks forward to working with the Committee moving forward.



Gabe Lezra
Federal Policy Manager and Senior Counsel