



October 13, 2023

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC, 20220

Dear Secretary Yellen,

The undersigned organizations are writing to echo lawmakers' concerns with the January 1, 2024, effective date for the new beneficial ownership information reporting requirements to implement the Corporate Transparency Act (CTA). We support the goal of preventing crimes such as money laundering and terrorism financing, but we believe a delay in implementation is necessary to ensure the Financial Crimes Enforcement Network (FinCEN) can implement the CTA's requirements in a clear, transparent, efficient and secure manner.

Bipartisan concerns with the January 1, 2024 effective date, were well-documented in a House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions hearing titled, "Potential Consequences of FinCEN's Beneficial Ownership Rulemaking." The hearing took place on July 18, 2023, less than six months before the CTA's requirements are scheduled to take effect.

As January 1, 2024 approaches, FinCEN is significantly behind on the steps necessary to implement the statute effectively. FinCEN has finalized only one of the three rulemakings necessary for the CTA's requirements to take effect. A second rulemaking has been proposed but has not been finalized and a third has yet to be issued for comment. Additionally, development of the national database to house the information is not completed and there has been no communication from FinCEN regarding an expected timeframe for its availability. Nor do we believe there has there been sufficient outreach and educational support to prepare impacted entities to comply with the new rules. We acknowledge and appreciate the issuance of the Small Entity Compliance Guide on September 18 and the two proposed changes issued on September 29, but much remains to be done.

Confusion around the rollout will divert significant compliance resources for small businesses trying to meet unclear and unreasonable deadlines. Our members, and other businesses in the housing industry, as highlighted in the recent hearing, will face many challenges meeting the deadlines. Not only will this be harmful to industry participants, but also to families seeking affordable housing. Notably, this is in opposition to FinCEN's commitment as expressed in its September 29, 2022, Beneficial Ownership Information Reporting Rule Fact Sheet that asserts "the rule aims to minimize burdens on small businesses and other reporting companies."

We are concerned the rules still may be unfinished in January 2024 or impacted small businesses may have just days or weeks to analyze the final rules ahead of the effective date. As summarized by House Small Business Committee Chairman Roger Williams (R-TX), impacted businesses, "need the rules to play by the rules."

Some witnesses at the hearing cautioned that delays in finalizing the third outstanding rule, which would revise the customer due diligence (CDD) rule, could result in a duplicative reporting regime if the January 1, 2024, effective date remains unchanged. Yet, rushing to issue final rules may result in rulemakings that are overly burdensome or lack sufficient security safeguards. A delay would provide FinCEN with time to adequately complete the outstanding rulemakings and guidance and focus on ensuring the final regime upholds the critical national security goals of the CTA. Impacted entities would have time to review the final rule and incorporate processes and procedures for compliance.

Concern about the security of the beneficial ownership database is bipartisan and is of importance to businesses and FinCEN alike as the increased threat of cyber-attacks on sensitive data is of paramount concern. Small businesses will be required to report sensitive pieces of private information, and several lawmakers cited recent Internal Revenue Service (IRS) warnings regarding scams that target such information. A delay would allow time to complete the database, provide reporting businesses with clear rules and ensure a secure process for submitting required information.

Further, stakeholders have cited the limitations of FinCEN's financial and staffing resources. A delay will help relieve strain on FinCEN's resources, allowing the agency to ensure it can provide impacted entities with access to adequate support.

Given these factors, we respectfully request that Congress, FinCEN and the U.S. Department of the Treasury take appropriate steps to delay implementation of the beneficial ownership information reporting requirements. Bipartisan support led to the CTA's enactment in 2021, and broad bipartisan concern with the state of implementation should warrant a delay before the end of 2023.

We look forward to continuing to work with policymakers on the implementation of the CTA and other policies with impacts on the housing industry. Thank you for your attention to these concerns.

Sincerely,

Council for Affordable and Rural Housing
Commercial Real Estate Finance Council
Institute of Real Estate Management
Manufactured Housing Institute
National Apartment Association
National Association of Home Builders of the United States
National Leased Housing Association
National Multifamily Housing Council
The Real Estate Roundtable

Cc:

Honorable Patrick McHenry
Honorable Maxine Waters
Andrea Gacki, Director FinCEN