

September 11, 2023

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the American Bankers Association (ABA), I am writing to express our support for H.R. 4035, the Protecting Small Business Information Act of 2023. Chairman McHenry's important legislation would require Treasury's Financial Crimes Enforcement Network (FinCEN) to finalize all rulemakings required under the Corporate Transparency Act (CTA) before any rules take effect, ensuring that banks and their customers fully understand their obligations before banks, or their customers, suffer unintended and adverse consequences.

The CTA, part of the Anti-Money Laundering Act of 2020 (AMLA), requires FinCEN to create a registry of the beneficial owners of legal entities formed or registered in the United States (Registry), while minimizing the compliance burden on the regulated community. While the effective date for the beneficial ownership reporting rule is currently January 1, 2024, to date FinCEN has only:

- Finalized the "Beneficial Ownership Information Reporting Requirements" rule (e.g. who must report and what information must be reported);
- Proposed a "Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities" (e.g. governing access to and use of beneficial ownership information); and
- Has yet to take action to amend the existing Customer Due Diligence rule (CDD rule) as required to reduce unnecessary or duplicative burdens on financial institutions and their legal entity customers.

To achieve the purpose of the CTA and further FinCEN's mission, all of these rules need to work together. That is not currently the case.

While ABA strongly supported the passage of the CTA and FinCEN's mission to safeguard the financial system from illicit use and combat money laundering, it is critical that FinCEN work with financial institutions and other stakeholders to achieve congruence between CTA objectives and existing anti-money laundering program requirements. Among other things, FinCEN should propose a better access rule, as the current proposal creates a framework in which banks' access to the Registry will be so limited that it will effectively be useless, resulting in a dual reporting regime for both banks and small businesses. Further, banks cannot work effectively with

FinCEN on an improved access rule if they are in the dark about their corresponding customer due diligence obligations. Therefore, FinCEN should identify proposed amendments to the CDD rule that will facilitate the improved and efficient CDD process contemplated by the CTA.

The steps taken by FinCEN to date frustrate the purpose of the CTA. The Protecting Small Business Information Act of 2023 will ensure that banks can continue their important role contributing to the protection of the U.S. financial system and provide FinCEN the time and opportunity to make critical reforms.

Sincerely,

