



# SCWA Legislative & Regulatory Update

April 22, 2024



## More Pressure to Delay CTA

The American Institute of Certified Public Accountants (AICPA) – along with more than 50 of its state societies and affiliates – once again called on federal regulators to delay implementation of the Corporate Transparency Act.

The letter is a scathing indictment of the new reporting regime and centers on the widespread confusion among the small business community when it comes to understanding their compliance obligations. It reads, in part:

*In numerous letters to FinCEN through the BOI rulemaking process and as recently as October of last year, we raised concerns regarding the constricted timeline for the small business community to understand the reporting requirement. We urged caution regarding the failure to provide a reasonable timeframe for small businesses to comply with BOI for both new and existing entities. We also raised concerns with the estimated burden hours and associated time-cost which has effectively become a 30-day tracking requirement.*

*We are still concerned that small businesses will be caught off guard with the new filing requirement and failure to file could result in steep civil and criminal penalties. The recent NSBA v. Yellen court case which found The Corporate Transparency Act (CTA) to be unconstitutional has only compounded confusion, with most entities believing they no longer have a filing requirement.*

This educational gap is significant. FinCEN, the agency tasked with implementing the CTA, estimates that 32 million entities will need to file this year. But an August 2023 survey conducted by NFIB found that 90 percent of respondents were “not at all familiar” with the CTA, with that number declining only slightly to 83 percent in a survey conducted six months later. Meanwhile, FinCEN received 430,000 reports as of mid-February, or just over 1 percent of the total expected. Absent a dramatic change, millions of small businesses will be noncompliant at the end of the year. That’s no small matter as non-compliant business owners are subject to penalties of up to 2 years in prison.

What explains this massive shortfall? FinCEN’s education campaign to date includes a website landing page, a three-page small business primer and, per their own account, 55 webinars reaching just 8,800 participants. This outreach is on top of extensive efforts by the Main Street community, but it is obvious that more time is needed. Outside of the tax code, the CTA is, after all, the most sweeping data collection initiative in history.

Fortunately, federal lawmakers are coming to the realization that the CTA is not ready for prime time. Legislation that would delay the CTA’s reporting requirements by one year passed the House last year and Senator Tim Scott has introduced the companion bill in the Senate. That legislation has cleared the Republican conference and only awaits the support of Senate Banking Committee Chair Sherrod Brown (D-OH) to move through the Senate.

Meanwhile, New York Governor Kathy Hochul signed into law amendments to the recently enacted New York LLC Transparency Act, extending its effective

date by two years. It's a clear recognition that the New York effort, which largely mirrors the CTA, is not ready.

Finally, later this month, the House Small Business Committee will hold a hearing entitled, "Under the Microscope: Examining FinCEN's Implementation of the Corporate Transparency Act." Among the witnesses testifying that day is Carol Roth, a staunch advocate for the small business community who has spoken out against the CTA in recent months. She's put out a call to affected businesses to share their stories, which will be included in her testimony – if you want your voice heard, this is an ideal forum.

The bottom line is that Main Street needs relief from this onerous and ill-conceived law. We're encouraged by the recent push to delay the CTA for a year and will continue advocating for its repeal.

SCWA and other small business organizations continue to support efforts to repeal and delay the CTA.



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