



555 12th St. NW, Ste. 1001
Washington, D.C. 20004

December 19, 2023

Hon. Janet L. Yellen, Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Hon. Shalanda Young, Director
Office of Management and Budget
725 17th St. NW
Washington, DC 20503

Dear Madam Secretary and Madam Director:

The National Federation of Independent Business¹ alerts you that, due to failures in the Department of the Treasury, the President has not yet carried out his constitutional duty to faithfully execute section 5336 of title 31 of the U.S. Code, enacted January 1, 2021. Section 5336 imposed an unwarranted burden on small businesses to report beneficial ownership information (BOI) to the Treasury domestic intelligence bureau known as the Financial Crimes Enforcement Network (FinCEN). But to help small businesses, Congress inserted into the law several provisions for confidentiality of BOI and education on the duty to report BOI. Treasury has not properly executed those provisions intended to protect small businesses.

Sections 5336(c)(2)(A), (c)(2)(C)(iii), (c)(3)(A), (c)(3)(C), (c)(3)(D), (c)(3)(K), and (c)(8) require the Secretary of the Treasury to keep BOI confidential. More than a year ago, the Department proposed BOI confidentiality regulations,² but the Department has not issued the final regulations to protect BOI, even though the Department soon will begin to receive BOI.³

Sections 5336(c)(11)(A)(iv)(I), (e)(1), and (g) require the Department to conduct outreach and notify small businesses of the BOI reporting requirement. The desultory efforts of Treasury with some materials on internet sites, a seminar over computers, and chats with some associations come nowhere near meeting the requirements of the law. Of most concern, the Department has failed to execute its statutory duty to notify small businesses of their BOI reporting requirement.

NFIB petitions you to implement promptly the confidentiality and education provisions of section 5336. You implemented the bad parts of the law; please implement the few good parts, too.

Sincerely,

David S. Addington

Executive Vice President and General Counsel

¹ NFIB is an incorporated nonprofit association representing small and independent businesses. NFIB protects and advances the ability of Americans to own, operate, and grow their businesses and ensures that the governments of the United States and the fifty States hear the voice of small business as they formulate public policies.

² Treasury notice of proposed rulemaking titled "Beneficial Ownership Information Access and Safeguards, and Use of FinCEN Identifiers for Entities," 87 *Fed. Reg.* 77404 (December 16, 2022).

³ See Treasury notice of final rule titled "Beneficial Ownership Information Reporting Deadline Extension for Reporting Companies Created or Registered in 2024," 88 *Fed. Reg.* 83499 (November 30, 2023).