



The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
S-230, The Capitol  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
U.S. Senate  
S-221, The Capitol  
Washington, DC 20510

The Honorable James Inhofe  
Chairman  
U.S. Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member  
U.S. Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, DC 20510

Dear Leader McConnell, Leader Schumer, Chairman Inhofe, and Ranking Member Reed:

On behalf of the National Small Business Association (NSBA), the nation's first small-business advocacy organization, with more than 65,000 small-business members representing every state and every industry across the country, I write to express our strong opposition to S. Amdt. 2198— Anti-Money Laundering Act of 2020—as part of S. 4049, the National Defense Authorization Act for Fiscal Year 2021.

This amendment may have been designed to provide transparency of “beneficial ownership” information of all U.S. companies when customers open accounts, but will actually create significant unintended consequences with new burdens and complexity for America’s small businesses. Millions of small businesses—those with 20 or fewer employees—would be required to register personally identifiable information with the Financial Crimes Enforcement Network (FinCEN), and update that information regularly for the life of the business.

S. Amdt. 2198 attempts to shift the reporting requirements from large banks – those best equipped to handle reporting requirements – to millions of small businesses – those least equipped to handle reporting requirements. Further, by exempting larger businesses, as well as publicly traded companies, and certain businesses engaged in financial services from the requirement, it adds a new regulatory requirement on to the backs of small businesses at a time when they are trying to recover and recuperate from an unprecedented public health and economic crisis.

According to the amendment, the initial filing and the annual reports must include the full legal name of the beneficial owner, his or her date of birth, residential address or business address, and an identification number from either a passport, identification card or driver’s license. What is seriously alarming is that this information would be accessible to thousands of law enforcement officers including the FBI, CIA, State Attorneys General, foreign law enforcement agencies via a request from an American

agency, and other intelligence and law enforcement offices across the country without a subpoena or a warrant and instead simply through a written request. Due to these reporting requirements and without proper protections, NSBA is concerned about the potential for a massive breach of privacy and cybersecurity concerns. This amendment, which grants broad access to personal information could be used by federal, state, local, or tribal law enforcement agencies for just about any reason.

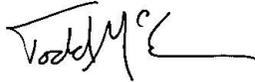
For NSBA, what is most concerning and perplexing about this amendment is that it targets small businesses by explicitly excluding businesses that have over 20 employees and more than \$5 million in gross receipts or sales. The bill would create paperwork burdens for these small businesses that will be required to comply with the mandates of the bill. Failure to comply or provide complete updated reports could result in civil penalties of \$500 per day up to \$10,000, and criminal penalties of up to 2 years in prison, or both.

Furthermore, this amendment circumvents the normal legislative process as it has never been considered in committee. A controversial amendment, such as this one, should not be attached to a must-pass, unrelated bills like the National Defense Authorization Act (NDAA) or an appropriations bill.

While the goal of the amendment may be to crack down on criminals who use shell companies to launder money, the real burden will fall on legitimate businesses with law-abiding owners instead. They are the ones who will have to comply with the new annual reporting requirements or unfairly face stiff penalties and jail terms.

For all of these reasons, NSBA strongly urges you to reconsider including this amendment in the NDAA or any future legislation, as small businesses will face serious problems if the fundamental provisions of this amendment were to become law.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken". The signature is stylized and includes a long horizontal line extending to the right.

Todd McCracken  
President & CEO