Eric: Welcome to "The Patti Brennan Show." Whether you have $20 or $20 million, this show is for those of you who aspire to protect, grow, and use your wealth to live your very best life.

Folks, I'm really excited today for a couple reasons. Today is my third opportunity to step into some very big shoes here as your guest host on the Patti Brennan show, so I'm delighted to be with you again.

I say that with a bit of apprehension because our guest today is none other than the illustrious founder of Key Financial, the actual host of the Patti Brennan Show, and my beloved boss. Ladies and gentlemen, Patti Brennan. Welcome to the show!

Patti: Eric, that is some introduction. Thank you so much. You're already over the bar.

Eric: Thank you. That makes me feel good because I figured if there's one show that's got to go right for my sake, it's got to be this one, with you sitting in the guest chair.

Patti: I so appreciate you taking this role because I will tell everybody that's watching and listening today, I hit you with this idea yesterday.

Eric: I said, "Can you please do this? This is really important. We got to get this out to people." Thank you for saying yes. For our listeners, I think it's an interesting format, and hopefully, it's fun. For you and I who have done this show before, it's a little bit of a role reversal here, but all good.

For everyone out there, we're both excited to explore and unpack a topic that is residing under the surface here and isn't part of mainstream financial discourse. It is something that has the potential to affect millions of people. I think this is a great medium here on the show to be able to explore these topics for our listeners today.

Patti: As with anything, Eric, we don't want to make it overwhelming or too complicated. We just want to increase awareness that this new law exists and a lot of people who are listening and watching could be affected by it, and don't even realize it. Nobody's really talking about it. We are.

Eric: I know. You and I here in this chair, we're like two financial swashbucklers charting a course into uncharted waters here.

Patti: Eric, I don't even know what a squash...

Eric: A swashbuckler!

Patti: I don't even know what that is, but OK. Whatever you say.

Eric: It sounds fun, and it's Halloween, in the spirit of the season.

Let's dive into this here, and I'm going to try and lay the groundwork here as we get into our Q&A and unpack the elements of this new law that people are going to face.

What we're really talking about is an inconspicuous piece of legislation called the Corporate Transparency Act. For anybody out there that loves acronyms, the CTA is what we'll be referring it to as.

Typical of Congress, this is a piece of legislation that is essentially shrouded within a much larger bill called the Defense Authorization Bill. That passed, what, two years ago, maybe -- I think 2021 -- known as HR6395. I think that is the technical term for it.

Patti, as we get into this and introduce this topic for our listeners, one of the elements of the CTA is this requirement for individuals who own or control a company to report beneficial ownership information to this government bureau called FinCEN, which sounds nefarious, diabolical, if you will.

Why don't we start this off. Can you explain what the goal of this act is, and who is FinCEN, for our listeners?

Patti: It's a great question, Eric. Let's take the last question first. FinCEN stands for Financial Crimes Enforcement Network. It's a division of the US Treasury that basically was formed to try to figure out how to prevent, uncover illicit schemes, like money laundering, terrorist schemes, and things of that nature because that's not OK.

There are millions of these entities, these shell companies that really aren't businesses, they're not out there making a profit, but they're a great way to hide those activities. This part of that huge legislation that's a footnote, if you will, is becoming a much bigger issue for a lot of Americans and they don't even realize it.

To answer your second question, what is the goal? The goal is exactly as the name states. It's to increase transparency because the Enforcement Network doesn’t really know who these entities are.

The objective is to have anyone, and everyone involved in an entity, disclose their name, address, tax ID, etc.

Call me naive, maybe I am, but the reason why I'm nervous about this, and I'm nervous for a lot of people listening is because they don't even realize that they're subject to it.

As you're about to learn, the penalties for not doing this for most of those entities and for a lot of people are severe. For example, it must be done by the end of this year, 2024. The fines are$500 per day per entity. Those are the civil penalties. There are also criminal penalties on top of it, which include jail time.

Here you've got these small businesses, LLCs. They're just in business and they didn't realize this. That's the purpose of our podcast today, is to increase awareness. We can't tell people what to do, but I just want to raise a flag and say, "By the way, have you heard about this? You might want to talk to your attorney."

Eric: The typical government playbook here. Financial sanction and threat of imprisonment is usually enough to get people to comply with the law.

Patti: Eric, as you probably have noticed, I have been glued to my computer with webinars. I've got so many webinars, the compliance guide, etc. Because as you know, a lot of entities and people who didn't think that they were subject to it, are going to be subject to it.

For whatever it's worth, Key Financial is not.

Eric: There's an exception.

Patti: There are lots of exceptions. The reason that Key Financial gets an exception is because we already report. The SEC is all over us, we report to FINRA, and we've got licenses. We're subject to a lot of oversight, so they know us.

Again, call me naive, but my gut feeling is that the goal here is to weed out the good guys so their resources can focus on the bad guys. To put it in perspective, it is estimated, Eric, that 32 million entities must file, and only 10 percent have so far.

Eric: My goodness.

Patti: Yes. I will tell you, knowing systems and knowing the government, my other concern is everybody's going to freak out at the end of the year, realize they have to file, and then the whole thing's going to shut down.

Eric: A couple points there. There's a lot of different things that we can go back and revisit there. One, who would have thought the US treasury is involved in international crime fighting? That actually makes them seem very cool, which normally, you wouldn't think the treasury is a very cool thing if you were going on a field trip to Washington, DC.

Patti: Totally cool. Yet money laundering is a very big issue, and that's what they want to uncover.

Eric: I think that's important. The spirit of this is that some could view it on the surface as maybe just an onerous regulation and an expansion of government. The real true emphasis here is to empower law enforcement, ensure compliance, and weed out things like illicit financing, tax fraud, and different schemes like that.

I think there is a benefit in that. It just improves the integrity of the financial system overall.

Patti: Sure, it could be wordsmithing or reframing it, but when you think about it, assuming this thing goes the way they would like it to go, it's more than just compliance. It could level the playing field. Because you know what? Those entities also don't pay taxes.

Is it a revenue raiser on its own? The answer is no. It doesn't cost any money to file, at least it doesn't yet. There is maybe a worthy goal in the end to make it better for businesses and especially family businesses, but again, there's so many of us out there.

The whole idea is to make sure everybody's playing by the same rules.

Eric: Yep. Level the playing field.

Patti: There are businesses, family businesses, and people out there working their tails off. They are paying their taxes and doing the right thing. Then you've got this granite, small group of nefarious, not so good people who are exploiting the fact that the government is overwhelmed trying to keep track of all these entities.

Eric: What's interesting about this data collection, for you and me as two people that operate in the financial ecosystem, is that these are just standard practices in our day-to-day lives. This is information that we must collect as financial professionals to get to know our customers.

What's interesting is this is creating a parallel system which is merely to empower different agencies and share information, or at least that's what I take away from this.

Patti: Exactly. There's a "Know Your "Customer rule whenever we work with somebody, or work with a client and it's getting a lot of the same information. Even to the point of whether somebody makes a deposit or asks for a withdrawal, we are obligated to understand what that is being used for. And what the source of funds is to make sure it isn't coming from some of the illicit activities.

None of our clients are involved in that, but that's standard practice for you and I. The government doesn't have that in most industries. It is interesting what they're trying to solve.

Eric: Absolutely. You've touched on this in our discussion so far, but it is a massive undertaking. What's interesting is I think you stated 32 million, or something like that, will be impacted.

That's 32 million people that exist today. I believe the compliance requirement is that they register by January 1st of 2025, unless they are an exempted organization. At this point, we're talking a little over 60 days or more.

Patti: Ok, you must go on this website. In the show notes, we will have the website as well as the information. Again, the one thing I don't want to do is create a problem where it doesn't exist, Eric.

Eric: Sure.

Patti: It's not that big of a deal. It's not something that's going to take you days to do. You don't have to hire anybody, necessarily. You just need to have the information on hand. For example, the name of the entity, the address of the entity, and the tax ID.

You must have either a passport or a state-issued driver's license and submit that. It's not that big of a deal, but it's an easy way for the government to filter the good guys out.

Eric: It's verifying the authenticity of the individual. I think what you're basically highlighting there is what they call beneficial ownership information. That's essentially the data points that identify not only the beneficial owners of these entities, but their personal information as well.

Patti: I must tell you; it has been so confusing. I've been working on this for six months and taking webinars. What do they mean, beneficial owner? By the way, who does that include?

For example, I have a family limited partnership. I've got four kids. They each have 25 percent. The beneficial ownership rules is that everyone that has 25 percent or more ownership has to file. All four kids have to file as beneficial owners.

What we were talking about is, well, who's going to do that? Is it the general partner's responsibility or is it the four limited partners' responsibility? When we think about the fines, etc., is it $500 per limited partner? I would say, yes. $2,000 a day just for that entity. Who's going to get hit with it? The entity itself.

Eric: Good point.

Patti: They all participate. If two out of four do it and two out of four don't, guess what? They're all going to get hit with it.

Eric: What's interesting there, though, as we think deeper below the surface, is that things can become murky as you start thinking about some people that might have various trust, and by extension, those trusts might have ownership percentages.

Say some of these reporting entities that are subject to the rule where the trust might not be, but they own a portion of an entity that does, and then that trust might have beneficiaries. How does somebody navigate the web of indirect relationships here that actually might make certain things subjected to the disclosure rules?

Patti: That's where you and I and people who really care come in because that's what I've been spending these six months, taking these webinars, etc. The irrevocable trust issue, to me, was a big issue.

Generally speaking, what I have learned -- and again, everybody listening needs to verify this with their own attorneys -- but generally speaking, irrevocable trust, spousal lifetime access trust, things of that nature do not have to file except if the trust itself owns or participates in an entity.

For example, it's a really good idea for many small businesses, family-owned businesses, to put a portion of that business, a certain number of shares of the stock, into a trust to get discounts for estate tax purposes. Guess what? Now it does have to file.

My goal here today with you, Eric, is to just bubble up who might be included. LLCs, no-brainer. Must file. What about sole proprietorships? The answer to that is based on the research, what I've learned is that sole proprietorships, generally speaking, do not have to file because they're not separate entities from the individual. I think we're good there.

S corporations, C corporations, 100 percent. To me, the default would be go ahead and file. It doesn't cost you anything. The question is going to be, well, how's the government going to know? Everybody files a tax return, don't they?

Eric: Yep. They sure do. Actually interesting. Who knows? Maybe we're laying the groundwork for a follow-up podcast in the new year that maybe explores some of these topics.

This is a great segue because what you highlighted there so beautifully is the limits or the scope. The fact is that this doesn't necessarily apply to everybody in every situation. FinCEN, on their website, has actually published what's called the Small Entity Compliance Guide, but essentially, within those pages, they enumerate 23 exceptions or exemptions,

Which is interesting because any law that's out there always has exceptions. I don't know if you can maybe shed some light on this. Even here, it's somewhat general, so it's hard to get to specifics. When you think about this, there are many exceptions to the rule.

You highlighted sole proprietorships, for one, I think anything that is a charitable or tax-exempt organization, for example, public companies that already have reporting requirements under the various securities laws. Things like that are exempt.

There is a fairly extensive list here of people that don't necessarily have to comply, but I think, to your point, ultimately, you need to defer to qualified counsel, your attorneys, somebody to help you navigate these waters and understand what your obligations are.

Patti: Eric, I'm so glad that you brought up this guide because it looks thick and it almost feels overwhelming.   They make it straightforward in terms of what entities are exempt from it.

For example, most financial businesses, banks, broker dealers, financial advisors are exempt because we already answer to so many agencies, etc. Utilities, accounting firms, etc. It's interesting, the larger companies are also exempt.

I have to stop here because I was actually surprised that this is actually aimed at small businesses. In the guide, there's actually a checklist and there's a flowchart that you can follow. Depending on what your answers are, you will be able to arrive at the determination as to whether or not you have to file.

Eric: It's like a binary yes, no, and you just keep following it down, almost, to see where you end up.

Patti: Exactly.

Eric: It's not so onerous, I assume.

Patti: 100 percent. Exactly.

Eric: Patti, as we've gone through this, when you think about, let's say, your responsibility here as our intrepid CEO of Key Financial, what is your role, and by extension, our role in helping our clients navigate this ever-changing legal environment, as we do?

Patti: What's interesting about that question that you've brought out beautifully is it's really murky. It's really opaque. We do the best that we can. We want to increase awareness. It's more than just a “by the way.”

If not us, then who? The people that I've spoken with, our clients, they haven't heard about this from anyone else. It's not our responsibility per se. We can't advise, we can't do it for clients, what we can do is increase awareness.

Eric: I have to say, this topic is one of those precious gems that you have unearthed even for me because this is something that was not on my radar screen, either.

The point that you're making here too as our role is not necessarily always to have the answer, but to have an awareness, but to do our role, which is to be the quarterback here and work with other professionals they may have, like accountants and attorneys, to understand how we make sure they can comply with the rules.

Patti: Eric, you are probably the best tactician, the best technical expert that I've ever come across in the financial planning industry. There's just so much that even you can do. We've had other people here listening to the webinars, getting the notes, investigating this on our behalf.

These things pop up from time to time and we go with it because... This is what it means to really care.

It's one thing to say you care, it's another thing to spend a weekend going through four inches of paperwork to figure out, who's going to be affected by this? What are we going to do? What's our what's our role in helping people through this this?

What is the expression? We don't want to...

Eric: Throw caution to the wind?

Patti: No. We don't want to say, '"Fire, fire, pants on fire."

Eric: At the same point, that one example that I gave you, that's $2,000 a day. It could be years before that family figured it out.

Eric: You don't want to wait to get the notice from one of the government agencies that you haven't been in compliance because that could take, who knows, six months or a year.

I have to say, Patti, I've had so much fun in this role reversal that we've done today. It's been a great time doing the show. This is the part of every podcast that I loathe, which is the end, where we have to basically wrap everything up and give our listeners here the high-level takeaway.

If you can sum it up as beautifully as you always do, and to distill the main points here that our listeners should take away from this podcast today.

Patti: Most important takeaway is don't panic. Not a big deal. Just understand that it exists. Go on FinCEN's website -- you can Google this stuff -- and go through the exercise of filling in and going through the flowchart to determine whether or not you may be involved as a beneficial owner of an entity.

Then it's just a matter of going on the website and filling in the information that they're asking for. Does not have to be a big deal, doesn't cost any money. Just get organized. Need names, address, tax ID numbers, and some ID. Act as if you're going to the airport.

I think, again, it's the awareness. It's like anything. You know, Eric, and everybody knows, I used to be an ICU nurse. Isn't it better to understand? Isn't it easier to deal with things when you're aware of it? That's what we're doing here. Increase awareness, prevent those huge fines.

Nobody's going to get jail time, unless, of course, they lie. Then those people are going to go to jail.

Eric: Absolutely. Thanks so much, Patti. I've certainly enjoyed the show today, and I think this is really powerful information for all of our listeners out there today.

By the way, thank you to all the listeners here who consistently tune in to The Patti Brennan Show. We are so grateful. If you have any questions or comments, please feel free to go to our website, www.keyfinancialinc.com.

Let us know your thoughts, share ideas for other shows that we might be able to do for a podcast, And we wish you all the very best.