



FACTCOALITION

Financial Accountability & Corporate Transparency

June 25, 2019

The Honorable Lindsey Graham  
Chairman, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Dianne Feinstein  
Ranking Member, Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

**RE: June 19<sup>th</sup> Hearing on “Combating Kleptocracy: Beneficial Ownership, Money Laundering, and Other Reforms”**

Dear Chairman Graham and Ranking Member Feinstein,

I offer these comments for the record on behalf of the Financial Accountability and Corporate Transparency (FACT) Coalition in regards to the June 19<sup>th</sup> U.S. Senate Committee on the Judiciary hearing titled “Combating Kleptocracy: Beneficial Ownership, Money Laundering, and Other Reforms.” We thank you for holding the hearing on this important issue.

The FACT Coalition is a non-partisan alliance of more than 100 state, national, and international organizations working to promote policies to combat the harmful impacts of corrupt financial practices.<sup>1</sup>

Anonymous companies formed in the United States have been used for a wide range of dangerous and illicit activities, including as fronts for rogue countries to evade sanctions,<sup>2</sup> to foster corruption by foreign kleptocrats,<sup>3</sup> to cloak arms dealers shipping weapons into conflict zones,<sup>4</sup> to fuel the opioid crisis in communities across the country,<sup>5</sup> to enable human trafficking,<sup>6</sup> to rip off taxpayer-funded programs like Medicare,<sup>7</sup> to defraud honest businesses,<sup>8</sup> and to undermine the safety of our troops through the sale of faulty equipment.<sup>9</sup>

Collecting beneficial ownership information at the time of corporate formation, requiring that it be updated whenever there are changes, and making that information available in a timely manner to law enforcement and those in the private sector that we entrust with anti-money laundering responsibilities would provide important new tools to effectively combat terrorism and financial crimes by ending the incorporation of anonymous companies in the United States.

In recent years, support for ending the incorporation of anonymous companies has expanded beyond the core anti-corruption community to now include national security experts,<sup>10</sup> police,<sup>11</sup> sheriffs,<sup>12</sup> local prosecutors,<sup>13</sup> state Attorneys General,<sup>14</sup> federal prosecutors,<sup>15</sup> human rights advocates,<sup>16</sup> anti-human trafficking groups,<sup>17</sup> faith-based networks,<sup>18</sup> international development NGOs,<sup>19</sup> CEOs,<sup>20</sup> big businesses,<sup>21</sup> small businesses,<sup>22</sup> banks,<sup>23</sup> credit unions,<sup>24</sup> real estate professionals,<sup>25</sup> insurance companies,<sup>26</sup> over 125 non-governmental organizations,<sup>27</sup> and scholars at both conservative<sup>28</sup> and liberal think tanks,<sup>29</sup> among others.

The FACT Coalition is proud to support various bipartisan measures that have been introduced in both chambers of Congress that would end the abuses of anonymous companies. In the House of Representatives, the *Corporate Transparency Act of 2019* (H.R.2513), sponsored by Representatives Carolyn Maloney (D-NY) and Peter King (R-NY), was recently reported favorably out of the Committee on Financial Services by a strong, bipartisan vote of 43 to 16 — marking the first time that any comprehensive beneficial ownership disclosure bill has made it out of a congressional committee.<sup>30</sup>

FACT has also endorsed bipartisan pieces of legislation in the Senate. Senators Ron Wyden (D-OR) and Marco Rubio (R-FL) cosponsored the companion bill to the Corporate Transparency Act in the previous Congresses.<sup>31</sup> The *True Incorporation Transparency for Law Enforcement (TITLE) Act* (S.1889) — sponsored by Senators Sheldon Whitehouse (D-RI) and Charles Grassley (R-IA), as well as Ranking Member Feinstein (D-CA) — is a solid, bipartisan piece of beneficial ownership legislation, which is under consideration by your committee and is also strongly supported by the FACT Coalition.<sup>32</sup>

Both of these bills, the Corporate Transparency Act and the TITLE Act, would enable law enforcement to more effectively and efficiently conduct investigations and enhance safety by saving time and resources in pursuing complex money laundering operations.

The Coalition is also encouraged by the recent unveiling of the bipartisan discussion draft of the *Improving Laundering Laws and Increasing Comprehensive Information Tracking of Criminal Activity in Shell Holdings (ILLICIT CASH) Act*, sponsored by Senators Mark Warner (D-VA), Tom Cotton (R-AR), Doug Jones (D-AL), Mike Rounds (R-SD), which adds to the growing momentum to end anonymous companies.<sup>33</sup> As the FACT Coalition's executive director, Gary Kalman, noted: the "release of draft legislation aptly named the *ILLICIT CASH Act* demonstrates that bipartisan, consensus solutions are within reach to address some historically difficult problems threatening our national security and the integrity of our financial system."<sup>34</sup>

We appreciate the opportunity to offer these comments. We hope they are helpful, and we look forward to working with you and the Committee in making progress on this important issue. Should you have any questions, please feel free to contact me at +1 (202) 810-1334 or [cgascoigne@thefactcoalition.org](mailto:cgascoigne@thefactcoalition.org).

Sincerely,

**Clark Gascoigne**  
Deputy Director

cc Members of the Senate Committee on the Judiciary

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<sup>1</sup> A full list of FACT Coalition members is available at <http://thefactcoalition.org/about/coalition-members-and-supporters/>.

<sup>2</sup> *United States Department of Justice*, "Manhattan U.S. Attorney Announces Court Judgment Finding Midtown Office Building Secretly Owned And Controlled By Government Of Iran Subject To Forfeiture For Violations Of The Iranian Transactions Regulations And Money Laundering Offenses," September 17, 2013, <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-court-judgment-finding-midtown-office-building-secretly>.

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- <sup>3</sup> Ben Judah, “The Kleptocracy Curse: Rethinking Containment,” *Hudson Institute*, October 2016, <https://www.hudson.org/research/12928-the-kleptocracy-curse-rethinking-containment>.
- <sup>4</sup> Written Testimony of U.S. Department of the Treasury Assistant Secretary Daniel L. Glaser before the Senate Committee on the Judiciary, Subcommittee on Crime and Terrorism, 1 November 2011: <https://www.treasury.gov/press-center/press-releases/Pages/tg1346.aspx>.
- <sup>5</sup> Nathan Proctor and Julia Ladics, “Anonymity Overdose: Ten Cases that Connect Opioid Trafficking and Related Money Laundering to Anonymous Shell Companies,” *Fair Share Education Fund*, August 2016, [https://www.fairshareonline.org/sites/default/files/AnonymityOverdose\\_Aug1\\_2016.pdf](https://www.fairshareonline.org/sites/default/files/AnonymityOverdose_Aug1_2016.pdf).
- <sup>6</sup> *Polaris Project*, “Hidden in Plain Sight: How Corporate Secrecy Facilitates Human Trafficking in Illicit Massage Parlors,” April 2018, <https://polarisproject.org/resources/hidden-plain-sight-how-corporate-secrecy-facilitates-human-trafficking-illicit-massage>.
- <sup>7</sup> Brian Grow, “Special Report: Phantom firms bleed millions from Medicare,” *Reuters*, December 21, 2011, <http://reut.rs/uGkAPw>.
- <sup>8</sup> *United States Department of Justice*, “Security Contractors Plead Guilty to Illegally Obtaining \$31 Million From Contracts Intended for Disadvantaged Small Businesses,” March 18, 2013, <https://www.justice.gov/usao-edva/pr/security-contractors-plead-guilty-illegally-obtaining-31-million-contracts-intended>.
- <sup>9</sup> *Global Witness*, “Hidden Menace,” July 2016, <https://www.globalwitness.org/en/reports/hidden-menace/>.
- <sup>10</sup> Bipartisan Letter from 91 National Security Experts, June 10, 2019, available at <http://bit.ly/2ZvJECj>.
- <sup>11</sup> Letter from the Fraternal Order of Police, May 6, 2019, available at <http://bit.ly/2KoYC9W>.
- <sup>12</sup> Letter from the National Sheriffs’ Association, May 7, 2019, available at <http://bit.ly/2Fk7vxd>.
- <sup>13</sup> Letter from the National District Attorneys Association, May 6, 2019, available at <http://bit.ly/2KoJDg9>.
- <sup>14</sup> Bipartisan Letter from Two Dozen State Attorneys General, August 2, 2018, available at <http://bit.ly/2J5Bla3>.
- <sup>15</sup> Letter from the National Association of Assistant United States Attorneys, May 6, 2019, available at <http://bit.ly/2L0fkvU>.
- <sup>16</sup> Letter from Amnesty International USA, EarthRights International, EG Justice, Enough Project, Freedom House, Global Witness, Human Rights First, Human Rights Watch, International Corporate Accountability Roundtable, and the International Labor Rights Forum, April 11, 2019, available at <https://www.hrw.org/news/2019/04/11/letter-chairwoman-waters-and-ranking-member-mchenry-re-corporate-transparency-act>.
- <sup>17</sup> See, for example, Letter from Polaris, May 2, 2019, available at <http://bit.ly/2WSJeUS>; and Letter from Street Grace, March 10, 2019, available at <http://bit.ly/2WOoti6>.
- <sup>18</sup> Letter from Jubilee Network USA, March 12, 2019, available at <http://bit.ly/2IXMXLU>.
- <sup>19</sup> Letter from ActionAid USA, Bread for the World, Jubilee USA Network, The ONE Campaign, and Oxfam America, June 7, 2019, available at <http://bit.ly/2MYVPpY>.
- <sup>20</sup> Letter from the CEOs of a Dozen Major Companies, April 30, 2019, available at <http://bit.ly/31Gcd1L>.
- <sup>21</sup> Richard Sawaya, “A maximum pressure campaign against the Kremlin,” *The Hill*, April 30, 2019, <https://thehill.com/opinion/international/441350-a-maximum-pressure-campaign-against-the-kremlin>.
- <sup>22</sup> Letter from Small Business Majority, April 25, 2019, available at <http://bit.ly/2KtteqK>.
- <sup>23</sup> See, for example: Letter from Nine Banking Associations, May 7, 2019, available at <http://bit.ly/2XpRlwx>; Letter from the Independent Community Bankers of America, May 8, 2019, available at <http://bit.ly/31Rbc7o>; and Letter from 51 State Banking Associations, June 10, 2019, available at <http://bit.ly/2Kow6Fh>.
- <sup>24</sup> Letter from the Credit Union National Association, June 11, 2019, available at <http://bit.ly/2Kttlgy>.
- <sup>25</sup> Letter from the American Escrow Association, American Land Title Association, National Association of REALTORS®, and Real Estate Services Providers Council, Inc. (RESPRO), May 7, 2019, available at <http://bit.ly/2E2KQoq>.
- <sup>26</sup> Letter from the Coalition Against Insurance Fraud, April 15, 2019, available at <http://bit.ly/2KYYygz>.
- <sup>27</sup> Letter from 127 Groups Supporting Corporate Transparency Act of 2019, June 10, 2019, available at <http://bit.ly/2L7vjon>.
- <sup>28</sup> See, for example: Clay R. Fuller, “Dealing with anonymity in business incorporation,” *American Enterprise Institute*, March 29, 2019, <https://www.aei.org/publication/dealing-with-anonymity-in-business-incorporation/>.
- <sup>29</sup> See, for example: Molly Elgin-Cossart and Trevor Sutton, “The Real Scandal Behind the Panama Papers,” *Center for American Progress*, May 10, 2016, <https://www.americanprogress.org/issues/security/news/2016/05/10/137191/the-real-scandal-behind-the-panama-papers/>.
- <sup>30</sup> See: Committee on Financial Services, “Markup of H.R. 2162; H.R. 2513; H.R. 2763; H.R. 3018; H.R. 3111; H.R. 3141; H.R. 3154; and H.R. 3167;” *U.S. House of Representatives*, June 11–12, 2019, assessable at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403829>.

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- <sup>31</sup> See: S.1717, 115<sup>th</sup> Congress, “Corporate Transparency Act of 2017;” *assessible at* <https://www.congress.gov/bill/115th-congress/senate-bill/1717>.
- <sup>32</sup> See: S.1889, 116<sup>th</sup> Congress, True Incorporation Transparency for Law Enforcement Act, or “TITLE Act”; *assessible at* <https://www.congress.gov/bill/116th-congress/senate-bill/1889>.
- <sup>33</sup> *The FACT Coalition*, “Bipartisan Group of Senators Unveil Draft Anti-Money Laundering, Ownership Transparency Bill,” June 10, 2019, *assessible at* <http://bit.ly/2Fy2YY3>.
- <sup>34</sup> Senator Mark Warner, “Warner, Cotton, Jones, Rounds, Unveil Draft Legislation to Improve Corporate Transparency and Combat Financing of Terrorism, Money Laundering,” *U.S. Senate*, June 10, 2019, *assessible at* <http://bit.ly/2ZsmGfo>.

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