



The Honorable Mike Crapo

Chairman

United States Senate Committee on Banking, Housing, and Urban Affairs

239 Dirksen Senate Office Building

Washington, D.C. 20510

The Honorable Sherrod Brown

Ranking Member

United States Senate Committee on Banking, Housing, and Urban Affairs

503 Hart Senate Office Building

Washington, D.C. 20510

November 18, 2019

**RE: S. 2563, “ILLCIT CASH Act”**

Dear Chairman Crapo and Ranking Member Brown:

We are writing to express our strong support for S. 2563, the “ILLCIT CASH Act,” which would require American companies to disclose information about the actual people who own or control them (often called the “beneficial owners”) at the time they are created.<sup>1</sup> The House of Representatives passed a companion bill, H.R. 2513, the “Corporate Transparency Act,” on October 22, 2019.

If passed, the act would provide law enforcement with an essential tool for stemming corruption and protecting human rights around the world. Corruption poses a serious challenge to human rights in many countries. The loss of resources from corrupt practices

---

<sup>1</sup> A draft of the bill is available on the US Congress website, at <https://www.congress.gov/bill/116th-congress/senate-bill/2563>

undermines a government's ability to invest in health, education, housing, and other basic rights. Corrupt officials frequently target transparency advocates, journalists, and others who they fear will expose their crimes. They may also abuse the criminal justice system to punish their critics and protect themselves from prosecution.

The United States has stepped up to help combat corruption around the world by denying corrupt actors the ability to launder their ill-gotten gains in its jurisdiction and aggressively investigating those who do. For example, building on international standards, US law requires financial institutions to apply heightened scrutiny to politically exposed persons, defined as anyone who fulfills a prominent public function, their family members, and close associates. The Global Magnitsky Human Rights Accountability Act, and Executive Order 13818 which implemented and built upon the law, allows the president to sanction current or former foreign officials and their enablers who have engaged in corruption. Sanctions include blocking the assets and prohibiting all business with designated individuals or entities and denying individuals' entry to the United States.

But corrupt officials can take advantage of weaknesses in US laws that allow them to register businesses anonymously to hide ill-gotten gains and escape legal or sanctions-based accountability. For example, the son of Equatorial Guinea's president, Teodoro Nguema Obiang Mangue, was able to purchase a \$35 million California mansion, a Gulfstream Jet airplane, and millions of dollars' worth of art in the United States. It was only after the US Senate Permanent Subcommittee on Investigations found in 2010 that he used US "shell company accounts as conduits for his funds" that investigations took place.<sup>2</sup> The same investigation also found that Pierre Falcone, a well-known arms dealer close to the former president of Angola, José Eduardo dos Santos, used "US shell company accounts at a US bank in Arizona to bring millions of dollars in suspect funds into the United States."<sup>3</sup>

This Senate subcommittee investigation was able to uncover the shell companies' true owners; it is impossible to know how many corrupt officials have successfully used similar companies to keep their identities hidden. Based on the subcommittee's findings, the report concluded that "Congress should enact legislation requiring persons forming U.S.

---

<sup>2</sup> US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Keeping Foreign Corruption Out of the United States: Four Case Histories*, February 4, 2010, page 2.

<sup>3</sup> *Ibid.*, page 4.

corporations to disclose the names of the beneficial owners of those U.S. corporations.”<sup>4</sup> The Financial Crimes Enforcement Network (FinCEN), a bureau of the US Treasury Department, also identified anonymous companies as a risk for corrupt foreign officials to use “premium US real estate to secretly invest millions in dirty money.” In response, it established and has periodically renewed a program requiring title insurance companies to identify the actual owners of companies paying all cash for residential real estate above a threshold of \$300,000 in 12 U.S. metropolitan areas, including Boston, Chicago, Miami and New York City.<sup>5</sup> According to FinCEN, the data from this program demonstrate “purchase of residential real estate by persons possibly involved in various illicit enterprises.” FinCEN further notes that continued collection of such data will “further assist in tracking illicit funds and other criminal or illicit activity.”<sup>6</sup>

Under international human rights law, governments have an obligation to use their available resources to improve access to and quality of health care, education, clean water, adequate housing, and other rights. In Equatorial Guinea, Human Rights Watch’s research has found that rampant corruption by the political elite in the oil-rich nation, including by Nguema, has robbed the country of its vast resources and contributes to its severe neglect of these rights. For example, Equatorial Guinea has among the world’s worst rates of vaccination and school enrollment, despite having the highest per capita GDP on the African continent. Human Rights Watch has also found that Equatoguinean authorities have engaged in a longstanding pattern of threatening, arbitrarily detaining and physically attacking transparency advocates in order to shield official corruption from public view.

In 2011, the US Department of Justice seized the mansion and other assets belonging to Nguema. It later settled the case after Nguema agreed to forfeit \$30 million to be repatriated for the benefit of the Equatoguinean people. That case gave rise to two money laundering investigations in France and Switzerland that recovered tens of millions of euros from Nguema; a third investigation, in Spain, is ongoing, involving a dozen government officials including the president.

---

<sup>4</sup> Ibid., page 6.

<sup>5</sup> FinCEN website, “FinCEN Reissues Real Estate Geographic Targeting Order for 12 Metropolitan Areas ,” <https://www.fincen.gov/news/news-releases/fincen-reissues-real-estate-geographic-targeting-orders-12-metropolitan-areas> (accessed November 4, 2019).

<sup>6</sup> Ibid.

The case of Equatorial Guinea is one example of many around the world that illustrates both corruption's devastating social impact and how corporate secrecy in the United States can unwittingly assist kleptocrats in moving their illicit funds abroad. But it also demonstrates the far-reaching positive impact the United States can have when it is willing to shine a light on corrupt officials' financial transactions.

By passing the **ILLICIT CASH Act**, Congress will provide law enforcement with a crucial tool to further the US commitment to keeping corrupt funds out of its financial networks and exposing the kleptocrats who abuse them.

Thank you for your commitment to this important issue.

Sincerely,

Amnesty International USA

Freedom House

Global Witness

Human Rights First

Human Rights Watch

International Corporate Accountability Roundtable

International Labor Rights Forum

EarthRights International

EG Justice

The Sentry/Enough Project