

December 6, 2017

Re: The Counter Terrorism and Illicit Finance Act Draft

Dear Chairman Pearce, Ranking Member Perlmutter, Chairman Hensarling and Ranking Member Waters:

We thank you for holding the hearing on “Legislative Proposals to Counter Terrorism and Illicit Finance.” On behalf of Jubilee USA Network, I would like to offer some thoughts and concerns on the Counter Terrorism and Illicit Finance Act draft. Jubilee USA Network is a religious development organization allied with more than 700 national and local faith groups. We are concerned with how financial secrecy, corruption and tax evasion are connected to poverty in the United States and abroad.

In particular, some anonymous shell companies have facilitated exploitation of vulnerable communities and supported corrupt regimes in the developing world. Shell companies contribute to an estimated one trillion dollars leaving the developing world annually through tax evasion and corruption.

In the U.S., we can prevent anonymous companies from exploiting vulnerable communities. We can also prevent money from being illicitly siphoned from the developing world.

The Counter Terrorism and Illicit Finance Act draft, takes important steps toward ending abuses of anonymous companies. Implementing effective transparency measures will make it easier for law enforcement to prevent illegal activity and stop activities that exploit the poor. Increasing corporate transparency will reduce the flow of corrupt or illegal money. Reducing corrupt behavior helps provide vulnerable populations with the means to access resources for building schools, hospitals, and the infrastructure necessary for development. Additionally, the collection of beneficial ownership information will make it harder for those stealing from the most vulnerable to use the United States financial system as a safe haven to hide their money.

While we applaud the inclusion of beneficial ownership provisions in the bill, the Committee should make certain changes ensuring that the legislation effectively combats the dangers of anonymous companies. We must see a strong definition of beneficial ownership and ensure there is adequate access to information collected to prevent corrupt, illegal and exploitative activities.

I urge you to keep the definition as written regarding those who control the entity. It is a clear and comprehensive definition that avoids the pitfalls of other definitions that attempted to gather this information allowing for managers, directors or other stand-ins for the true owner(s). The 2016 release of the Panama Papers was instructive in this regard. Due to lax rules around corporate ownership information, a single employee at the Panamanian law firm, Mossack Fonseca, served as the named entity for approximately 20,000 companies. She had little-to-no knowledge of the beneficial owners of those 20,000 companies. If we are updating our laws, we must not repeat that mistake and therefore need to keep the clear and comprehensive definition as written.

Another area in the draft of concern is the limited access to information gathered. State and local law enforcement do not have direct access and yet most investigations into illegal activity are performed by state and local officials in the United States. This omission undermines the reforms and must be remedied as the process moves forward. The restriction of access by foreign law enforcement officials is another concern.

The draft also limits access by law enforcement to criminal subpoenas. Financial institutions, whom we engage in anti-money laundering activity, would have appropriate access by simple request. Law enforcement should have ready access to this information at all stages of the investigative process. Not all financial crimes are criminal offenses but they may still pose threats to our communities which is why the bill should include civil and administrative subpoenas.

It is concerning that foreign nationals looking to establish a U.S. company do not have the same requirements as U.S. citizens to disclose ownership information. This administrative loophole needs to be closed.

In addition to the issues I shared, at Jubilee USA we concur with the recommendations included in the written testimony of Stefanie Ostfeld from Global Witness.

Thank you for your consideration. We are happy to answer any questions you may have and look forward to working with you on enacting these important reforms.

Sincerely,



Eric LeCompte
Executive Director
cc Rep. Maloney and Rep. King