



FACTCOALITION

Financial Accountability & Corporate Transparency

April 27, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
The Capitol
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
The Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
The Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
The Capitol
Washington, D.C. 20510

RE: Key Transparency and Accountability Policies to Guide the U.S. COVID-19 Policy Response

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy,

On behalf of the Financial Accountability and Corporate Transparency Coalition (FACT Coalition), I urge you to protect taxpayers and ensure the integrity of the COVID-19 pandemic response and stimulus program by implementing the essential transparency and accountability measures outlined below.

The FACT Coalition is a non-partisan alliance of more than 100 state, national, and international organizations in the United States working toward a fair tax system that addresses the challenges of a global economy and promoting policies to combat the harmful impacts of corrupt financial practices.¹

The current COVID-19 pandemic presents an enormous global health and economic crisis, posing unprecedented policy challenges — both at home and abroad. At \$2.7 trillion, the recently-enacted CARES Act and subsequent Paycheck Protection Program and Health Care Enhancement Act amount to the largest economic stimulus response in U.S. history, while lawmakers are already working on additional large measures.

While certainly warranted, the rapid disbursement of capital on such a large scale does present an enormous risk for waste, fraud, abuse, and corruption — in addition to the potential for simple policy mistakes. As such, it is critical to institute a number of key transparency and accountability measures to ensure that these taxpayer funds are safeguarded from fraud and corruption and ultimately go toward your goal of fighting the pandemic, shoring up the

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

economy, and helping those most in need. It is also important to refrain from including extraneous measures in these stimulus packages that would do little to help Americans or our economy while unnecessarily reducing long-term tax revenues that are necessary to ensuring we have the resources to make important public health investments in the months and years to come.

We offer the below guidelines as foundational provisions for ensuring the integrity of the COVID-19 response.

Top Guidelines

1. Ensure that protections in the current stimulus program against tax haven abuse are not weakened so that U.S.-registered companies continue to be the only entities eligible to receive taxpayer support under the stimulus programs.
2. Maintain existing safeguards in the tax code against offshore tax haven abuse and ensure that multinational corporations do not receive any tax giveaways that would needlessly shrink public revenues in a time of crisis.
3. Require public country-by-country reporting of key financial information (e.g. taxes, profits, revenues, number of employees) for any multinational corporation receiving significant financial support or tax breaks under the stimulus packages.
4. Maximize the stimulus funding available for legitimate businesses by requiring that, each entity that receives a contract, sub-contract, grant, sub-grant, or loan under the stimulus programs discloses, or has already disclosed, its beneficial ownership information to authorities in order to ensure that stimulus funds are not wasted or stolen by fraudsters or other criminal actors.

Additional Important Guidelines

Domestic Response

1. Provide supplemental funding for key government agencies involved in executing programs under the stimulus, particularly the Internal Revenue Service and the Small Business Administration, to allow for effective implementation.
2. Ensure that government contracts go toward fighting the virus and providing help to those who need it most, and are not stolen or otherwise misappropriated by bad actors by:
 - a. Requiring that all government contracts and grants include model anti-corruption provisions;
 - b. Requiring any recipient of more than \$50,000 in emergency coronavirus-related funding or support — including contractors, subcontractors, grantees, subgrantees, and loan recipients — to provide quarterly, public reporting about how that money is being used to address the crisis. Any entity that receives funding should provide data on the economic impacts of said funding on employment, estimated economic growth, and other key economic impact

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- factors. Finally, Congress should include mechanisms in the bill to ensure that such reporting can occur electronically;
- c. For government contractors that receive significant federal contracts, making contractor records related to those contracts subject to the Freedom of Information;
 - d. Protecting whistleblowers at all levels of government and within the private sector who disclose evidence of dangers to public health or safety, or evidence of waste, fraud, or abuse, from retaliation. This measure should also allow whistleblowers with robust due process rights, including access to jury trials in cases where administrative relief is unavailable in practice, and should include a clear statement of support and encouragement for whistleblowers; and
 - e. Clarifying existing U.S. whistleblower laws to make clear that whistleblower protections extend to subcontractors and subgrantees.

International Response

As this is a global pandemic, the U.S. should ensure that foreign aid and foreign contracting is used to fight the virus and is not being siphoned off by fraudsters or corrupt actors.

Recommendations include:

1. Appointing an Anti-Corruption Director and an interagency Anti-Corruption Task Force to advise and help implement the U.S. government's international response to the pandemic;
2. Designating anti-corruption officers in select U.S. embassies, especially embassies in high-risk countries receiving significant government aid or assistance;
3. Mandating that new USAID funding include targeted funds for in-country transparency and accountability efforts, and providing financial incentives for reporting any misappropriation of these funds; and
4. Expanding U.S. anti-bribery laws to cover foreign officials who solicit or attempt to extort bribes from U.S. persons or companies.

Long-Term Structural Guidelines

In order to ensure that the United States is better prepared to prevent and/or weather the next crisis, policymakers should enact key structural reforms to increase transparency and accountability and strengthen the U.S. and global economies, including by:

1. Ensuring that all companies formed in the United States disclose their beneficial ownership information at the time of formation and update it upon any changes;
2. Requiring public country-by-country reporting of key financial information (e.g. taxes, profits, revenues, number of employees) for all multinational corporations;
3. Strengthening safeguards against offshore tax avoidance by:
 - a. Equalizing the corporate tax rates on foreign and domestic profits;

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- b. Strengthening ‘anti-inversion’ rules to stop U.S. companies from claiming foreign residence simply to dodge taxes;
 - c. Applying offshore tax dodging safeguards on a per-country basis (rather than as a global average);
 - d. Working with international partners to adopt a strong global minimum corporate tax, which is no lower than the U.S. domestic tax rate and which is implemented on a per-country basis;
4. Establishing a global network of trade transparency units (TTUs) to detect and deter fraud, corruption, money laundering, and tax evasion through the mis-invoicing of price, value, quantity, or quality of goods;
 5. Expanding anti-money laundering and anti-corruption due diligence obligations to all gatekeepers to the financial system; and finalizing FinCEN’s proposed rule to impose anti-money laundering and suspicious activity reporting requirements on registered investment advisers.

Thank you very much for considering the Coalition’s thoughts on this topic. Should you have any questions, please feel free to contact me at +1 (202) 810-1334 or cgascoigne@thefactcoalition.org.

Sincerely,

Clark Gascoigne

Interim Executive Director

cc Members of the U.S. Senate
 Members of the U.S. House of Representatives

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