



**THE B TEAM** ▶



June 17, 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

**RE: ILLICIT CASH Act (S.2563)**

Dear Leader McConnell and Leader Schumer,

We write to express our strong support for the bipartisan ILLICIT CASH Act (S.2563). This bill will modernize our nation's anti-money laundering rules, including through the important step of collecting beneficial ownership information at the time of company formation to help U.S. law enforcement communities fight corruption, organized crime, and terrorism.

Illicit commerce thrives, in large part, because the current rules allow criminals to exploit vulnerabilities and gaps in our laws to further criminality and hide behind anonymous companies. Several studies have documented how criminal networks and their corrupt facilitators use opaque corporate structures to sell billions in counterfeit and pirated goods and then, again, to launder their dirty money to finance other crimes. This secrecy means bad actors are able to compete with legitimate businesses with impunity. The unfettered corruption disrupts markets, harms businesses, injects uncertainty which can impede capital formation, undermines the integrity of our financial system, and imperils our national security.

The harm caused by illicit commerce, facilitated oftentimes by the abuse of anonymous companies, is far reaching. In 2019, the Organization for Economic Cooperation and Development (OECD) and European Union Intellectual Property Office (EUIPO) estimated that the value of imported fakes worldwide was up to 3.3 percent of world trade in 2016.<sup>1</sup> The

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<sup>1</sup> OECD, "Trade in fake goods is now 3.3% of world trade and rising," March 18, 2019, <https://www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm>.

International Chamber of Commerce (ICC) and the International Trademark Association (INTA) have also projected that the global economic value of counterfeit and pirated goods alone will exceed \$2 trillion by 2022.<sup>2</sup> In a January 2020 report to President Donald Trump, the U.S. Department of Homeland Security emphatically stated that “illicit goods trafficked to American consumers by ecommerce platforms and online third-party marketplaces threaten public health and safety, as well as national security.”<sup>3</sup>

In addition to the significant economic impacts to companies and governments alike from the loss of revenues, dangerous counterfeit products endanger the health and safety of all people and communities. In recent weeks, the U.S. Departments of Justice and Homeland Security, as well as INTERPOL, have raised alarms about how criminals are exploiting global threats such as today’s coronavirus pandemic to profit from the fear and misery of consumers by plying counterfeit medicines, medical supplies and equipment, cleaning disinfectants, and other goods — including through the use of the darkweb, social media, and online marketplaces.<sup>4</sup> Some national security experts have also underscored how addressing anonymous shell companies and beneficial ownership is important to mitigate the harms of “coronacrimes”, including frauds, counterfeiting, and cyber scams related to the current COVID-19 global pandemic, as well as the possible criminal and fraudulent exploitation related to the \$2.2 trillion coronavirus stimulus package (H.R. 748, the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES” Act).<sup>5</sup>

Furthermore, according to a 2019 study, anonymous companies have been implicated in the sale of counterfeit medicines such as OxyContin, Lipitor, Percocet, Xanax and others out of India and China, knock off parts sold to the U.S. military, fake electronics sold across on-line marketplaces, and even illicit Venezuelan oil.<sup>6</sup> The U.S. Treasury Department, in the 2018 National Money Laundering Risk Assessment, found that Chinese Fentanyl, often sold in the U.S. through anonymous companies, changed the “nature of synthetic drug trafficking.”<sup>7</sup> As a

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<sup>2</sup> *International Chamber of Commerce*, “Global impacts of counterfeiting and piracy to reach US\$4.2 trillion by 2022,” February 6, 2017, <https://iccwbo.org/media-wall/news-speeches/global-impacts-counterfeiting-piracy-reach-us4-2-trillion-2022/>.

<sup>3</sup> *U.S. Department of Homeland Security*, “Combating Trafficking in Counterfeit and Pirated Goods: Report to the President of the United States”, January 24, 2020,

[https://www.dhs.gov/sites/default/files/publications/20\\_0124\\_plcy\\_counterfeit-pirated-goods-report\\_01.pdf](https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf)

<sup>4</sup> *U.S. Department of Homeland Security*, OPERATION STOLEN PROMISE, “An Initiative Targeting COVID-19 Fraud,” Homeland Security Investigations, May 2020, <https://www.ice.gov/topics/operation-stolen-promise>; *U.S. Department of Justice*, “Justice Department Files Its First Enforcement Action Against COVID-19 Fraud”, March 22, 2020, <https://www.justice.gov/opa/pr/justice-department-files-its-first-enforcement-action-against-covid-19-fraud>; *INTERPOL*, “Coronavirus outbreak sparks a new trend in counterfeit medical items: Criminals are cashing in on COVID-19”, March 19, 2020, <https://www.interpol.int/en/News-and-Events/News/2020/Global-operation-sees-a-rise-in-fake-medical-products-related-to-COVID-19>.

<sup>5</sup> Jodi Vittori, “Illicit financial flows will be easier during the coronavirus pandemic”, *The Hill*, April 2, 2020, <https://thehill.com/opinion/finance/490815-illicit-financial-flows-will-be-easier-during-the-coronavirus-pandemic>.

<sup>6</sup> David M. Luna, “Anonymous Companies Help Finance Illicit Commerce and Harm American Businesses and Citizens,” *The FACT Coalition*, May 2019, <http://bit.ly/2LCOV99>.

<sup>7</sup> *U.S. Department of the Treasury*, “2018 National Money Laundering Risk Assessment,” December 20, 2018, [https://home.treasury.gov/system/files/136/2018NMLRA\\_12-18.pdf](https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf).

direct consequence, the illicit use of anonymous companies negatively impacts the economic and financial interests of U.S. companies and markets, as criminals and counterfeiters expand their market share of fake products across American cities and on-line markets.

The current gaps in our anti-money laundering laws, including the formation and use of anonymous companies, also enable the financing of global insecurity and instability, as some terrorist networks are increasingly resorting to selling counterfeit and pirated goods to fund their operations.<sup>8</sup>

The collection of beneficial ownership information is a necessary, simple, and commonsense measure to significantly advance anti-money laundering efforts and crack down on illicit commerce and cross-border market security threats. We applaud the bipartisan cooperation that led to this measure and urge you to advance the ILLICIT CASH Act.

Your leadership on this issue will help ensure that U.S. firms are able to compete on an honest economic playing field, protect the integrity of our products to keep consumers safe and healthy, and give our law enforcement agencies the authorities and tools to protect our markets and communities against determined bad actors and threat networks.

Sincerely,

**National Foreign Trade Council**

**SafeProof Foundation**

**The B Team**\*

**United States Council for International Business**

CC: Members of the U.S. Senate

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<sup>8</sup> Danielle Paquette, "Fake drugs kill people and fund terror. African leaders hope to do something about it," January 18, 2020, *The Washington Post*, [https://www.washingtonpost.com/world/west-african-leaders-try-to-crack-down-on-fake-drugs-blamed-for-thousands-of-deaths/2020/01/18/1d43e0c4-39de-11ea-a01d-b7cc8ec1a85d\\_story.html](https://www.washingtonpost.com/world/west-african-leaders-try-to-crack-down-on-fake-drugs-blamed-for-thousands-of-deaths/2020/01/18/1d43e0c4-39de-11ea-a01d-b7cc8ec1a85d_story.html).

\* On December 19, 2019, The B Team also sent a letter to Chairman Mike Crapo and Ranking Member Sherrod Brown, U.S. Senate Banking Committee, providing strong support for the ILLICIT CASH Act including commitments from five CEOs from Unilever, MasterCard, Virgin Group, Dow Chemical, and Chobani, and other business leaders, <https://bteam.org/our-thinking/news/business-and-civil-society-leaders-urge-action-to-end-anonymous-companies-in-the-us>.