



FACTCOALITION

Financial Accountability & Corporate Transparency

July 20, 2020

The Honorable Nancy Pelosi
Speaker
U.S House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

RE: Corporate Transparency Act / COUNTER Act (Maloney Floor Amendment #1 / Rules Amendment #499 to H.R. 6395, which will be included in En Bloc #1)

Dear Speaker Pelosi and Minority Leader McCarthy,

On behalf of the Financial Accountability and Corporate Transparency (FACT) Coalition, we write in support of the bipartisan **Corporate Transparency Act** and **COUNTER Act, a pending amendment to the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Maloney Floor Amendment #1 / Rules Amendment #499 to H.R. 6395), which will be included in En Bloc #1**. The FACT Coalition is a non-partisan alliance of more than 100 state, national, and international organizations promoting policies to combat the harmful impacts of corrupt financial practices.¹

It has been decades since our nation's anti-money laundering laws were updated. Over time, the criminal and corrupt have developed ever more sophisticated networks, but our law enforcement and national security officials are currently working with outdated and insufficient tools to counter the emerging threats.

The International Monetary Fund (IMF) and United Nations Office on Drugs and Crime (UNODC) estimate the scale of global money laundering falls somewhere around two to five percent of global gross domestic product — approximately \$1.5 trillion to \$3.7 trillion in 2015.² According to the UNODC, less than one percent of global illicit financial flows are seized and forfeited. A bipartisan group of over 100 national security experts has also warned against U.S. adversaries misusing shell companies incorporated in the United States.³ As financial crimes accelerate due to the ongoing COVID-19 pandemic, it is more important than ever that we address these critical vulnerabilities to our economic defenses.

Sponsored by Representatives Carolyn Maloney (D-NY), Peter King (R-NY), Emmanuel Cleaver (D-MO), Michael Waltz (R-FL), Tom Malinowski (D-NJ), and Maxine Waters (D-CA), this amendment represents an historic opportunity to curtail the misuse of anonymous shell companies for illicit purposes and enact additional key reforms to our nation's anti-money laundering laws.

The biggest vulnerability in our anti-money laundering regime is the incorporation of anonymous U.S. shell companies. These opaque structures have a well-documented history of being used to undermine our national security, hide bad actors, and launder the proceeds for a wide variety of crimes — including sanctions evasion, terrorist financing, human trafficking, drug trafficking, illegal arms dealing, tax evasion, the sale of counterfeit and pirated goods, and grand corruption.

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

² Financial Action Task Force, Money Laundering, *Financial Action Task Force*, 2016. Available at <http://www.fatfgafi.org/fag/moneylaundering/>.

³ John Agoglia et al. Letter to House Speaker Nancy Pelosi and Minority Leader Kevin McCarthy, July 20, 2020, <https://bit.ly/2ZLKe1L>.

A 2014 study by academics at the University of Texas-Austin, Brigham Young University, and Griffith University found that the U.S. was the easiest place for terrorists, criminals, and kleptocrats to form an anonymous company to launder their proceeds with impunity.⁴ A March 2019 analysis from Global Financial Integrity reveals that — in all fifty states — “more personal information is needed to obtain a library card than to establish a legal entity that can be used to facilitate tax evasion, money laundering, fraud, and corruption.”⁵ At the same time, investigations like those that resulted from the 2016 Panama Papers leaks continue to reveal that drug cartels, human traffickers, arms dealers, corrupt foreign officials, sanctioned individuals, and other criminals regularly set up U.S. shell companies without providing any information about who owns or controls such entities.⁶ Criminals often layer these anonymous companies, with one owning another and so on, to make it even harder to “follow the money” and figure out who is directing the company’s activity. These tactics enable criminals to disguise their identities behind the anonymity provided to U.S. companies and to launder dirty money through the U.S. financial system.

This amendment would take the simple but effective step of asking businesses to name the true owner (a.k.a. beneficial owner) at the point of corporate formation and provide updates when ownership information changes. According to the U.S. Small Business Administration, approximately three-quarters of all U.S. businesses are non-employer firms — meaning they involve only one individual.⁷ An analysis by the United Kingdom of its beneficial ownership directory found the costs as reported by small business owners of maintaining and updating their information over time was between \$2 and \$3 per year.⁸ For small businesses, this is a simple matter and the benefits to law enforcement and our national security are enormous.

In addition to ending the incorporation of anonymous companies in the United States, Maloney Amendment #1 also includes a number of important provisions to combat the growing sophistication of criminal networks. Among the many provisions, the legislation would establish new requirements for arts and antiquities dealers to ensure high-end transactions are not serving as fronts for money-laundering. The amendment would also extend Treasury’s Geographic Targeting Orders to better protect our nation’s real estate from purchase by rogue actors. This latter threat was highlighted in a recent case in which the U.S. Department of Justice found, after many years, that Iran had been evading our sanctions through anonymous U.S. companies used to purchase a skyscraper in Manhattan.⁹

Adoption of Maloney Amendment #1 should be straightforward; we note that the House of Representatives already passed a nearly identical measure in October 2019 with a strong bipartisan vote¹⁰ and backing from the White House.¹¹

⁴ Michael Findley et al. “Global Shell Games: Experiments in Transnational Relations, Crime, and Terrorism.” *Cambridge University Press* (March 24, 2014), Page 74. <http://bit.ly/2uTLptQ>.

⁵ Press Release, “Report Demonstrates Ease of Establishing Anonymous Shell Companies,” *Global Financial Integrity*, March 21, 2019, accessible at <https://www.gfintegrity.org/press-release/report-demonstrates-ease-of-establishing-anonymous-shell-companies/>.

⁶ *International Consortium of Investigative Journalists*, “The Panama Papers: Exposing the Rogue Offshore Financial Industry,” An ICIJ Investigation, April 2016, accessible at <https://www.icij.org/investigations/panama-papers/>.

⁷ *Small Business Administration*, “Frequently Asked Questions,” September 2012, https://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.

⁸ *U.K. Department for Business, Energy & Industrial Strategy*, “People of Significant Control (PSC) Register: review of implementation,” August 2, 2019, <https://www.gov.uk/government/publications/people-of-significant-control-psc-register-review-of-implementation>, Pg. 28.

⁹ *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>.

¹⁰ See: H.R.2513 - Corporate Transparency Act of 2019.

¹¹ Office of Management and Budget, “Statement of Administration Policy: H.R. 2513 – Corporate Transparency Act of 2019, as amended by Manager’s Amendment,” *The White House*, October 22, 2019, https://www.whitehouse.gov/wp-content/uploads/2019/10/SAP_HR-2513.pdf.

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The amendment is supported by a broad spectrum of constituencies, including national security groups such as FDD Action, Foreign Policy for America, National Security Action, and Win Without War; business groups such as the American Bankers Association, Credit Union National Association, U.S. Council for International Business, National Foreign Trade Council, and Small Business Majority; law enforcement groups such as the Fraternal Order of Police, National District Attorneys Association, National Sheriffs' Association, and the National Association of Assistant U.S. Attorneys; anti-human trafficking groups such as Polaris and Street Grace; anti-corruption groups such as Transparency International and the Project on Government Oversight; faith groups such as the Evangelical Lutheran Church in America and Jubilee USA Network; humanitarian groups such as the ONE Campaign and Oxfam America, human rights groups such as Amnesty International USA, Freedom House, Human Rights First, and Human Rights Watch; labor unions such as the AFL-CIO, AFSCME, and the International Brotherhood of Teamsters; as well as the Delaware Secretary of State.

This Congress has an historic opportunity to overcome decades of inaction and improve our anti-money laundering rules, better protect local communities from the harms caused by criminal and corrupt activity, and ensure the integrity of our financial system. We hope you seize it by advancing Maloney Amendment #1.

In addition to Maloney Amendment #1, the FACT Coalition also supports the following bipartisan amendments to the National Defense Authorization Act:

- **Keating Floor Amendment #195 (Rules Amendment #630) — The Countering Russian and Other Overseas Kleptocracy (CROOK) Act, which will be included in En Bloc #2**, sponsored by Representatives William Keating (D-MA), Brian Fitzpatrick (R-PA), Andy Kim (D-NJ), John Curtis (R-UT), Thomas Suozzi (D-NY), and Dean Phillips (D-MN).
- **Lynch Floor Amendment #239 (Rules Amendment #559) — The Kleptocracy Asset Recovery Rewards Act, which will be included in En Bloc #2**, sponsored by Representatives Stephen Lynch (D-MA), Ted Budd (R-NC), Kathleen Rice (D-NY), Brian Fitzpatrick (R-PA), and Steve Cohen (D-TN).

For additional information, please contact Erica Hanichak at ehanichak@thefactcoalition.org.

Sincerely,

Clark Gascoigne
Interim Executive Director

Erica Hanichak
Government Affairs Director

cc Members of the U.S. House of Representatives

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