



FACTCOALITION

Financial Accountability & Corporate Transparency

December 8, 2020

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
U.S. Senate  
Washington, DC 20510

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 (Title LXIV of the National Defense Authorization Act, H.R. 6395)**

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

On behalf of the Financial Accountability and Corporate Transparency (FACT) Coalition, we write in support of the bipartisan **Corporate Transparency Act, which is included as Title LXIV in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (H.R. 6395)**. 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.<sup>1</sup>

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ever more sophisticated networks, but our law enforcement and national security officials are currently working with outdated and insufficient tools to counter the emerging threats.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.<sup>2</sup> 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.<sup>3</sup> 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.

Negotiated and revised by the leadership of the Senate Banking and House Financial Services Committees with the critical input of relevant U.S. agencies, congressional leadership, and outside stakeholders, Title LXIV represents an historic opportunity to curtail the misuse of anonymous shell companies for illicit purposes.

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

<sup>2</sup> Financial Action Task Force, Money Laundering, *Financial Action Task Force*, 2016. Available at <http://www.fatf-gafi.org/faq/moneylaundering/>.

<sup>3</sup> John Agoglia et al. Letter to Senate Majority Leader Mitch McConnell and Minority Leader Chuck Schumer, (June 25, 2020), <https://bit.ly/2YDI83C>.

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.

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.<sup>4</sup> 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.”<sup>5</sup> 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.<sup>6</sup> 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 legislation 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.<sup>7</sup> 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.<sup>8</sup> For small businesses, this is a simple matter and the benefits to law enforcement are enormous.

**Though Title LXIV contains some concerning flaws that must be addressed through regulation and further legislation, we encourage Congress to pass the Corporate Transparency Act of 2020 (Title LXIV) as an amendment to the National Defense Authorization Act (H.R. 6395) this week.**

The Corporate Transparency Act 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 Bank Policy Institute, American Bankers Association, Credit Union National Association, National Association of Realtors, 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

<sup>4</sup> 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>.

<sup>5</sup> 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/>.

<sup>6</sup> *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/>.

<sup>7</sup> *Small Business Administration*, “Frequently Asked Questions,” September 2012, [https://www.sba.gov/sites/default/files/FAQ\\_Sept\\_2012.pdf](https://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf).

<sup>8</sup> *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.

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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 U.S. Chamber of Commerce and 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 the Corporate Transparency Act in the NDAA.**

For additional information, please contact Erica Hanichak at [ehanichak@thefactcoalition.org](mailto:ehanichak@thefactcoalition.org).

Sincerely,

**Ian Gary**  
Executive Director

**Clark Gascoigne**  
Senior Policy Advisor

**Erica Hanichak**  
Government Affairs Director

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

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