



**FACTCOALITION**  
Financial Accountability & Corporate Transparency

**United States House of Representatives**

**Committee on Ways and Means  
Oversight Subcommittee**

Hearing on  
“The Pandora Papers and Hidden Wealth”

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## **Introduction**

Chairman Pascrell and Ranking Member Kelly, and members of the Oversight Subcommittee, thank you for holding this important hearing.

I am happy to appear on behalf of the FACT Coalition and our members to reflect on U.S. financial secrecy in the wake of the revelations of the Pandora Papers, and to discuss important progress on key bipartisan reforms that will help mitigate tax dodging and improve U.S. tax compliance.

Since its founding in 2011, the Financial Accountability and Corporate Transparency (or FACT) Coalition – a nonpartisan alliance comprised of more than 100 civil society organizations<sup>1</sup> – has campaigned for the U.S. government to prioritize efforts to combat financial secrecy, including by addressing vulnerabilities in the U.S. financial system that facilitate money laundering, sanctions evasion, corruption, tax dodging, and illicit financial flows.

## **The Pandora Papers and Current State of U.S. Financial Secrecy**

The fact is simple: the U.S. has become one of the largest financial secrecy jurisdictions in the world.<sup>2</sup> This undesirable status harms average Americans, undermines our national security, weakens democracy, and erodes our tax base – as well as that of countries around the world.

The insidious effects of this secrecy pervade the pages of the Pandora Papers, the largest expose to date detailing in shocking detail the all-too familiar ways in which the global rich, criminals, and foreign and domestic political elites are able to weaponize flaws in our U.S. financial and legal systems against principles of democracy and fairness. In particular, the Pandora Papers have pointed the finger squarely at U.S. trusts as one of the most significant gaps in the U.S. regulatory regime, creating a major blindspot for law enforcement and other authorities in ensuring compliance with the law.<sup>3</sup>

## **The Danger of Anonymous U.S. Shell Entities**

The risks that financial secrecy pose are, in part, why the Administration – on the eve of the inaugural Summit for Democracy – just announced a whole-of-government strategy identifying

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<sup>1</sup> For a list of our members, see <https://thefactcoalition.org/about-us/coalition-members-and-supporters/>.

<sup>2</sup> Tax Justice Network, “2020 Financial Secrecy Index,” February 2020, <https://fsi.taxjustice.net/en/>.

<sup>3</sup> Debbie Cenziper, Will Fitzgibbon, and Salwan Georges, “Foreign Money Secretly Floods U.S. Tax Havens. Some of It’s Tainted,” October 4, 2021, <https://www.washingtonpost.com/business/interactive/2021/booming-us-tax-haven-industry/>.

how the U.S. will prioritize the fight against corruption, including by enacting policies that will have major implications for U.S. national security and tax enforcement.<sup>4</sup> The strategy notes, “While tax crimes are thought to be different than corruption, the two are often interconnected.”<sup>5</sup>

Firmly centered among the proposals announced Monday include important progress in bringing greater transparency to U.S.-registered legal entities. Anonymous shell companies capable of being formed or otherwise investing or doing business in the U.S. pose one of the biggest vulnerabilities to the U.S. financial system. According to a 2019 analysis by Global Financial Integrity, until recently, in all 50 states and the District of Columbia, “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>6</sup>

There is overwhelming evidence of how anonymous U.S. shell companies have been exploited by drug traffickers, kleptocrats, U.S. adversaries, fraudsters, and tax evaders to stash away ill-gotten gains; dodge sanctions; and keep wealth out of view of U.S. law enforcement and tax authorities. There is one such case from Boca Raton, Florida in which an attorney used an anonymous shell company from New York as part of a scheme to evade the payment of \$1.5 million in income tax.<sup>7</sup>

In short, the current anonymity with which most legal entities may form or invest in the United States facilitates complex tax evasion schemes capable of frustrating proper tax enforcement by an underfunded IRS, as well as state and local or global tax authorities.<sup>8</sup>

### **Robust Implementation of Bipartisan Corporate Transparency is Paramount**

After years of vigorous debate, this year Congress finally enacted the bipartisan Corporate Transparency Act – a measure that requires corporations, limited liability companies (LLCs), and

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<sup>4</sup> U.S. White House, “United States Strategy on Countering Corruption,” December 6, 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

<sup>5</sup> U.S. White House, “United States Strategy on Countering Corruption,” December 6, 2021, p. 23, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

<sup>6</sup> Global Financial Integrity, “The Library Card Project: The Ease of Forming Anonymous Companies in the United States,” March 2019, <https://gfinetegrity.org/report/the-library-card-project>.

<sup>7</sup> U.S. Attorney’s Office for the Southern District of Florida, “Boca Raton Attorney Pleads Guilty to Tax Evasion,” U.S. Department of Justice, March 4, 2016, <https://www.justice.gov/usao-sdfl/pr/boca-raton-attorney-pleads-guilty-tax-evasion>.

<sup>8</sup> See, e.g., Government Accountability Office, Report to Committee on Finance, “Tax Gap: IRS Can Improve Efforts to Address Tax Evasion by Networks of Businesses and Related Entities,” September 2010, <https://www.gao.gov/assets/gao-10-968.pdf>.

“other similar entities” to disclose their true, natural owner to a secure directory housed and maintained at Treasury’s Financial Crimes Enforcement Network, or FinCEN. These entities report in connection with filing to form in a U.S. state or territory, or registering to do business in a U.S. state, in the case of a foreign entity.<sup>9</sup>

The law marks the single most significant update to U.S. anti-money laundering laws in twenty years. According to the statute, information in the directory is to be made accessible to authorized law enforcement officers, national security officials, the Internal Revenue Service (IRS), and other federal enforcement authorities, as well as financial institutions, like banks, that have customer due diligence requirements under applicable laws.

The Treasury Department and Financial Crimes Enforcement Network are to be commended for their efforts to deliver a robust rule in time to meet the timeline outlined in the statute, as we understand that a proposed rule is imminently forthcoming.

Yet Congress still has an important role to play in implementing this statute to its fullest intent. To adequately tackle the secrecy problems laid bare by the Pandora Papers, Congress should encourage FinCEN now or during the comment period to ensure that a draft rule on the Corporate Transparency Act:

- Reporting entities: Is inclusive in its definition of entities required to report beneficial ownership information – including to require non-exempt trusts to report under the statute, given the centrality of South Dakota trusts in the Pandora Papers exposé. This step is necessary both to ensure the utility of the information for tax and law enforcement purposes, and to avoid inadvertently driving demand to other, more opaque financial vehicles. If the rule does not include certain trusts identified in the Pandora Papers or if it otherwise creates other unintended loopholes, Congress may consider legislative fixes to create a more comprehensive regulatory framework.
- Access: Facilitates uncomplicated access for authorized law enforcement and tax authorities, which play a central role in ensuring compliance with U.S. tax laws and prosecuting tax evasion cases. Per the statute, this information must be made readily accessible to the IRS and facilitate the information exchange with other authorities that is contemplated by the Act, and as is necessary to allow the U.S. to meet its commitments.

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<sup>9</sup> Title LXIV of P.L. 116-283.

- *Verification*: Creates modern verification standards to ensure the quality of the data in the directory. Not only do simple verification measures – for example, pinging a driver’s license number for accuracy against existing government databases – minimize compliance costs for business, but it also aligns the U.S. with the latest beneficial ownership standard put forward by the international Financial Action Task Force that requires that beneficial ownership information be “adequate, accurate, and up-to-date.”<sup>10</sup>

### **Congress Should Take Further Steps to Mitigate the Role of U.S. Secrecy in Tax Evasion**

There remains still more work for Congress to do to ensure that loopholes in the U.S. financial system do not further illicit finance or undermine U.S. tax enforcement.

#### *Bring “Gatekeeper” Industries under Anti-Money Laundering Rules*

Congress should also consider measures to require additional scrutiny within industries best placed to spot risks of money laundering and tax evasion. The United States is in the last 10 percent of countries that have not taken the step of requiring non-financial business professionals to fulfill anti-money laundering obligations.<sup>11</sup> Two recent reports from FACT and member organizations Global Financial Integrity and Transparency International-US Office demonstrate major vulnerabilities posed to the U.S. financial system via the opacity of the U.S. real estate and private investment sectors.<sup>12</sup>

Luckily, the new “United States Strategy for Countering Corruption” marks the Administration’s intention to bring key “gatekeeper” industries – including lawyers, corporate and trust formation agents, and accountants, as well actors in real estate and private investment – under the purview of U.S. anti-money laundering laws.<sup>13</sup> As these professions are situated to create

<sup>10</sup> Financial Action Task Force, “Revision to Recommendation 24 and Interpretive Note – Public Consultation,” October 2021, [https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/Pdf-file\\_R24-Beneficial-Ownership-Public-Consultation.pdf](https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/Pdf-file_R24-Beneficial-Ownership-Public-Consultation.pdf).

<sup>11</sup> Josh Rudolph, “Regulating the Enablers,” The German Marshall Fund’s Alliance for Securing Democracy, September 21, 2021, <https://securingdemocracy.gmfus.org/regulating-the-enablers/>.

<sup>12</sup> Erica Hanichak, Lakshmi Kumar, and Gary Kalman, “Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security,” FACT Coalition, Global Financial Integrity, and Transparency International-U.S. Office, December 2, 2021, <https://thefactcoalition.org/report/private-investments-public-harm/>.

See also Global Financial Integrity, “Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat’s Dream,” August 2021, <https://gfindegrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/>.

<sup>13</sup> U.S. White House, “United States Strategy on Countering Corruption,” December 6, 2021, p. 23, <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

and direct hidden wealth through opaque entities on behalf of their clients, this would be a key step to ensure criminals, corrupt officials, and tax evaders are denied financial safe haven in the United States.

Congress should work with the Administration to advance policies put forward by bills, such as the ENABLERS Act (H.R. 5525), to help close these long-standing loopholes in the U.S. financial system.<sup>14</sup>

#### *Approve an Expanded Budget for the Financial Crimes Enforcement Network*

The Financial Crimes Enforcement Network will need additional resources and staff to finalize a rulemaking and stand up a database that meets modern standards in security, data quality, and searchability for competent authorities. Congress must stop punting and finally approve a budget that meets the Biden Administration's requested \$190 million for FinCEN to carry out this important rule,<sup>15</sup> as well as advance the ambitious anti-corruption reforms laid out in the new Administration strategy.

#### *Better Resource the Internal Revenue Service*

Finally, effective tax enforcement requires the IRS having access to the resources it requires to be technically capable of digging into complex ownership networks and to invest in the technology necessary to assist in these efforts. IRS funding currently contemplated under the Build Back Better Act is critical for bolstering tax enforcement in the U.S. As Treasury Deputy Secretary Wally Adeyemo noted in an event co-hosted by the Brookings Institution and the FACT Coalition on Monday, "This tax enforcement will not only generate \$400 billion in revenue over the next decade, it will help deter tax avoidance and assist Treasury in identifying instances of corruption, working side-by-side with the tools provided under the Corporate Transparency Act."<sup>16</sup>

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<sup>14</sup> "Representatives Malinowski, Salazar, Cohen and Wilson Introduce Bipartisan Legislation to Stop Enablers of International Corruption," October 6, 2021, <https://malinowski.house.gov/media/press-releases/representatives-malinowski-salazar-cohen-and-wilson-introduce-bipartisan/>.

<sup>15</sup> U.S. White House, "FY2022 Discretionary Request," Letter to U.S. Senate Committee on Appropriations, April 9, 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/04/FY2022-Discretionary-Request.pdf>.

<sup>16</sup> The Brookings Institution, "Combating corruption to drive democratic renewal A kickoff event for the Summit for Democracy," Event, December 6, 2021, <https://www.brookings.edu/events/combating-corruption-to-drive-democratic-renewal>.

**Conclusion**

In conclusion, Congress has an important role to play in ensuring that the U.S. financial system is not a vehicle for tax dodging, corruption, human rights abuses, or other financial harms.

I want to thank the members and staff of the Oversight Subcommittee for holding this hearing on such an important topic, and I welcome your questions.