



H.R. 8314, the *No Foreign Election Interference Act* Rep. Nicole Malliotakis (R-NY)

Background:

- The Federal Election Campaign Act (FECA) prohibits foreign nationals from donating money to U.S. campaigns.
- There are, however, **no laws preventing foreign nationals from influencing U.S. elections** by directing funds to tax-exempt (TE) organizations under Section 501(c)(3) and Section 501(c)(4) of the Internal Revenue Code or other TE organizations.
- **This loophole has been exploited by foreign nationals, including adversaries of the United States, such as China.**

Issue(s):

- The most prominent and recent example of a foreign national donating money to tax-exempt organizations is billionaire **Hansjörg Wyss**—the Swiss national that was the focus of the Committee on Ways & Means’ hearing on December 13, 2023, *Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape*.
 - Wyss has a 501(c)(3) organization—the Wyss Foundation—and a 501(c)(4) organization—the Berger Action Fund.
 - Mr. Wyss’s organizations donated money to other TE organizations that sent **tens of millions of dollars to Super PACs**. For example, *The New York Times* reported that between 2016 and 2020, Wyss’s 501(c)(4) donated to the Sixteen Thirty Fund, which distributed **\$63 million to Super PACs** that supported Democrats and is one of the “*leading dark money spenders on the left.*”
 - The Committee on Ways & Means is aware of Mr. Wyss’s efforts largely due to public reporting and his willingness to be public about his efforts. Many other similar efforts may be shielded by complex networks of TE organizations.

The *No Foreign Election Interference Act*:

- Amends the Internal Revenue Code to impose penalties for organizations who receive contributions from foreign nationals and then make contributions to Super PACs.
- Amends 26 U.S.C. § 501 to **prohibit TE entities from making any contribution to a Super PAC**, as defined in 26 U.S.C. § 30101, for eight years from the date a TE entity received a **contribution or gift from a foreign national**.
 - This prevents foreign money from flowing into TE organizations and subsequently into Super PACs.
- The first two disqualified contributions would be punished by a fine totaling **200%** of the donation amount. A third contribution would result in the automatic **revocation of TE status** for the organization making the donation to a Super PAC.