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**Senate Judiciary Committee Hearing on Beneficial Ownership: Fighting Illicit
International Financial Networks Through Transparency
Questions for the Record
Submitted February 13, 2018**

QUESTIONS FROM SENATOR COONS

1. **In most states, entity information filed with state business registries is made public. Are there potential risks that a state-based approach to the collection of beneficial ownership information pose with respect to privacy?**

It is my understanding that entity information is currently not required to list the actual "beneficial owner." It can be a "nominee," a lawyer, another LLC or corporation, a secretary, or any number of other things. This lack of a beneficial owner requirement is what creates "anonymity." As long as anonymity is allowed, there is no risk to privacy. A 50-state approach will increase the probability that some states will seek out and create ways to continue allowing anonymity in business incorporation.

2. **In fighting international illicit networks, would a fifty-state approach to the collection and retention of beneficial ownership information inhibit law enforcement's ability to prosecute illegal activity?**

Beneficial ownership legislation should not be construed as an effort to regulate business or to usurp the powers of the states. I believe it is properly viewed as a law enforcement action to protect U.S. national security interests.

From the perspective of international criminal organizations, terrorist organizations, and kleptocrats, the ideal beneficial ownership registry system would be 50 different public registries with 50 different systems that can be explored and prodded for loopholes, chokepoints, and leverage opportunities. In other words, a 50-state system allows bad actors to go shopping for anonymity (in other words, shelter from law enforcement) and opportunity. I am not law enforcement, but it is my understanding that the three biggest impediments to law enforcement action are 1) the lack of beneficial ownership information, 2) the lack of political will to address the international and domestic threats of illicit finance, and 3) difficulties in information sharing and analysis – domestic and international.

A beneficial ownership registry addresses the law enforcement concerns of points 1 and 3. I believe that the lack of political will (in other words, bipartisan support and bipartisan opposition) is due to real and perceived uncertainty surrounding what beneficial ownership registries may uncover. Because of the anonymity in business incorporation currently allowed, it is not logically possible for anyone to predict what, exactly, will be found. This is why I strongly believe that registries should *not* be public. A beneficial ownership registry is properly understood as a law enforcement matter. I do not see it as an economic regulation *nor* as campaign finance reform. These are separate issues.

   3. **Do you believe there are benefits to law enforcement with a federal repository that collects and maintains beneficial ownership information?**

Concerning data collection and data analytics, it is almost always better to have uniform formats (or rules) and a central repository. The specific benefits of state vs federal beneficial ownership registries to law enforcement would depend upon the jurisdictions of the relevant law enforcement agencies. There are benefits and costs associated with either approach.

Using the state-level approach, Congress could pinpoint its legislation, specifying stricter enforcement in states thought to incorporate the largest shares of anonymously held corporations and LLCs involved in illicit finance. This would be more efficient from a budgetary and enforcement standpoint in the short-run because funding can be targeted. This could encourage and build state-level sharing of information with county and city-level law enforcement. But, not only would this approach raise the above-mentioned issues concerning states, it could merely push bad actors into other U.S. jurisdictions (states) and end up unfairly hurting states that may or may not unwittingly benefit from illicit finance.

Using the federal repository approach, Treasury, DOJ, HSI, and other national security agencies could more easily leverage data for analytic purposes. This includes using common correlational approaches, network analysis, predictive analytics, and possibly artificial intelligence or blockchain technologies. Congress could also put in place rules and processes for how data will be acted upon and shared with state, county, and local authorities.