FINANCIAL INTEGRITY NETWORK

Protecting Our Elections: Examining Shell Companies and Virtual Currencies as Avenues for Foreign Interference

Questions for the Record

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Senator Grassley

QUESTION: In your testimony you stated that the Internet Research Agency bought advertisements on U.S. social media websites in the names of U.S. persons and entities, and paid for the ads by setting up U.S. personas to establish credit cards, bank accounts, PayPal accounts, and cryptocurrency exchange accounts.

1. **Specifically regarding the True Incorporation Transparency for Law Enforcement (TITLE) Act and the Shell Company Abuse Act, do you have any sense whether these two bills, acting in concert, would deter – or even eliminate altogether – the activity you described in your testimony?**

2. **What are other things we could do from an enforcement perspective to prevent foreign actors from accessing the U.S. financial system to conceal their identities and make what otherwise appear to be legal payments?**

ANSWER: Together, the TITLE Act[1] and the Shell Company Abuse Act[2] would equip law enforcement to detect and disrupt the use of shell companies by foreign actors to interfere in our political processes. Legislation to ban anonymous companies has broad support. Financial institutions,[3] transparency advocates,[4] and the Treasury Secretary[5] all have endorsed efforts to make company formation transparent.

The TITLE Act and the Shell Company Abuse Act would not, however, have prevented the Internet Research Agency from conducting all of the activity that I described in my testimony. The Internet Research Agency used stolen U.S. person identities to establish bank, PayPal, and cryptocurrency accounts, according to a grand jury indictment.[6] Detecting this activity requires effective implementation of Bank Secrecy Act (BSA) requirements.

To prevent foreign – or domestic – actors from concealing their identities in the U.S. financial system, we should consider extending the customer identification program (CIP) requirement to money services businesses (MSBs). We also should consider strengthening oversight of MSBs. As of 2016, the United States had 41,788 MSBs,[7] and MSBs are playing an increasingly important role in facilitating payments.

In addition, the recent indictment of the Russian operatives accused of hacking the Democratic National Committee is an alarming example of the misuse of virtual currencies. The aim of the global financial transparency regime is to keep illicit activity out of the international financial system and to prevent harm.[8] In this case, the Russian operatives evaded the financial transparency regime surrounding Bitcoin[9] in part by mining their own coins,[10] and their activity was exposed only well after

the harm had occurred. Our goal must be near-real time interdiction of national security threats, and our financial transparency regime must support that goal, whether those who threaten our national security choose to transact through banks or using virtual currencies.

QUESTION: Your testimony pointed out the Matsura case prosecuted by the Southern District of California. In that case, the Department of Justice was able to identify a foreign national illegally pouring hundreds of thousands of dollars into the San Diego mayoral campaign in 2012 to buy influence. The FBI and DOJ not only uncovered the scheme, but they won the case. And he was sentenced to three years in prison.

1. **As you've studied that case, what made law enforcement successful? What are some of the tools they used to figure out Matsura's scheme, develop evidence, and use that evidence against him in a civilian court?**
2. **In that case, DOJ was able to get custody of the target because he made himself available to authorities by being present in the United States. What are some of the challenges we face in bringing other foreign actors to justice in our civilian court systems who are overseas and more sophisticated in terms of their movements to the United States?**
3. **What other tools are available for those kinds of targets – i.e., the individuals who, we know, we will be unable to haul into court?**

ANSWER: Federal investigators in this case appeared to rely on a confidential informant to develop the case, judging solely from the criminal complaint, other information that prosecutors released, and press reports.[11] Jose Susumo Azano Matsura, the Mexican national who was sentenced to three years in prison for making almost $600,000 in illegal political contributions,[12] owned a home in Coronado, Calif.,[13] and had business interests in the United States.[14] Federal investigators probably were able to use Azano's significant ties to the United States to facilitate his arrest and ensure that he faced justice.

Other defendants are unlikely to face justice, because they live in countries that will not extradite them to the United States, and they have few – if any – legitimate business interests that will bring them to the United States. In these instances, releasing information about what investigators discovered is still useful. Unsealed indictments help Americans understand how they might be targeted by foreign adversaries and provide information that Americans can use to protect themselves. U.S. sanctions against individuals beyond the reach of other enforcement activities also can be powerful tools for exposing these individuals' activities and restricting

their ability to access the international financial system.

Senator Klobuchar

QUESTION: Does the anonymity associated with the use of shell companies to buy real estate hurt law enforcement's ability to trace the flow of laundered money?

ANSWER: The use of anonymous companies to purchase real estate hinders law enforcement[15] and makes due diligence more cumbersome for the private sector as well. Banks and other businesses should not need to hire private investigators to determine the identity of the natural person behind a transaction, but our tolerance for anonymous companies means that sometimes they have to do exactly that.[16]

QUESTION: Would you support efforts by the Department to require more transparency in these types of real estate transactions?

ANSWER: Yes. It is clear that the Geographic Targeting Orders (GTOs) that FinCEN has issued have provided valuable insight into real estate transactions, with more than 30 percent of transactions reported under the GTOs involving subjects of unrelated suspicious activity reports.[17] The U.S. real estate market will always be attractive to money launderers, because U.S. real estate is a safe long-term investment. Our current financial transparency regime, which continues to allow high-end real estate to be purchased anonymously outside of the areas covered by the GTOs, makes our real estate market irresistible to money launderers.

QUESTION: What are some of the biggest changes to money laundering tactics in recent years, and in your view, how well are our current laws equipped to respond to those developments?

ANSWER: What is most remarkable about money laundering tactics is how little they have changed. We have known for years that anonymous companies undermine financial transparency.[18] Yet during the past year, FinCEN advisories on real estate,[19] North Korea,[20] Venezuela,[21] South Sudan,[22] and corruption[23] all have warned financial institutions that illicit actors were using shell companies to evade sanctions and launder money. Judging from this consistency in money laundering tactics across national security threats, it is clear that we have not done enough to make anonymous companies unattractive to money launderers as an all-purpose tool for concealing their activities.

More exotic threats – such as virtual currencies – have so far had narrow applications, mostly related to online crime.[24] We should seek to secure virtual currencies against

illicit use, but we will have a greater impact on illicit finance in the immediate term by focusing on banning anonymous companies.

Senator Blumenthal

QUESTION: Currently, no state requires corporations to disclose the actual beneficial owner of companies incorporated in their state. Rather than the actual beneficial owner, incorporation documents can merely list front people, or "nominees," to represent the company. In many cases, the nominee can be an attorney who can claim attorney-client privilege with the actual owner. In other cases, the nominee can be another shell corporation, further obscuring the owner. What this means is that foreign nationals and governments can evade the prohibition on providing funding in U.S. elections by simply setting up a company to mask their true identity, and donate through that company.

To address this problem, I, along with my colleagues Senators Whitehouse, Grassley, Durbin and Graham introduced the Shell Company Abuse Act. This legislation makes it a felony for an owner, officer, attorney, or incorporation agent of a corporation, company, or business entity to establish or use a corporation, company, or business entity to conceal illegal political activity by a foreign national.

a. **How does our existing legal framework, including the lack of incorporation transparency laws, enable shell companies to flourish?**

b. **How do shell companies enable actors in a financial transaction to mask their identity?**

c. **If someone wanted to evade the existing contribution limits in our campaign finance laws, could they use shell companies to do so? How?**

d. **How can shell companies be used to mask the source of campaign contributions in an election?**

e. **If a foreign actor wanted to contribute funds to a campaign in a U.S. election, could that actor use shell companies to do so? How?**

f. **Would the Shell Company Abuse Act address this problem, and if so, how?**

g. **What else can we do at the federal level to address this issue?**

ANSWER: Anonymous companies are the greatest threat to the financial integrity mission. They hinder investigations[25] and complicate due diligence. Our leading national security threats, including North Korea,[26] Iran,[27] and Russia,[28] have used shell

companies to conceal their activities.

Importantly, anonymous companies can be used to conceal nationality, because a person from one country can form anonymous companies in many other countries.[29] This poses challenges to enforcing laws that proscribe foreign nationals' activities and to financial institutions that are attempting to determine the risk presented by a customer or transaction.

Together, the TITLE Act[30] and the Shell Company Abuse Act[31] would equip law enforcement to detect and distrupt the use of shell companies by foreign actors to interfere in our political processes. Legislation to ban anonymous companies has broad support. Financial institutions,[32] transparency advocates,[33] and the Treasury Secretary[34] all have endorsed efforts to make company formation transparent.

QUESTION: In the past, this Committee has heard testimony from Heather Conley of the Brookings Institution on what she calls the "Kremlin Playbook." According to Conley, Vladimir Putin and his cronies groom potential collaborators by developing financial ties to business leaders in other countries. When they can align the financial interests of these business leaders with the political interests of the Kremlin, they can turn business partners into geopolitical allies and, in some cases, partners in crime. It seems obvious that for this playbook to work most effectively, Russia must be able to establish business relationships with individuals overseas without creating a paper trail.

A recent report published by McClatchy DC reveals the troubling extent to which Russian oligarchs with questionable backgrounds have been paying cash for real estate at President Trump's properties at much higher prices than market value, and made these purchases using shell companies.

a. Would it be harder for Russia to follow its playbook if Congress passed legislation to make corporations more transparent?

ANSWER: Banning anonymous companies would make it more difficult for Russia to funnel money to U.S. persons without being detected and would make it clear to targets of the Kremlin Playbook that they were being coopted by Russian nationals. Even if the Russians used anonymous companies in third countries, the money would still clearly be coming from a foreign source, which should raise red flags.

QUESTION: In February of this year, Special Counsel Mueller indicted thirteen Russians, twelve of whom worked for a shadowy, Kremlin-connected organization called the Internet Research Agency (IRA). The indictment states that the IRA engaged in a campaign of online disinformation that included the

creation of hundreds of fake political pages on Facebook and accounts on Twitter that were presented as belonging to everyday Americans aimed at boosting Donald Trump, undermining Hillary Clinton, and sowing general "political discord" in the United States by supporting radical causes on both sides. The indictment reveals that the IRA used a network of shell companies—entities with names like MediaSintez LLC, GlavSet LLC, and MixInfo LLC— to hide the original source of its funding, and that by September, 2016, had a monthly budget of more than $1.25 million.

a. What are the ways opaque corporate structures make it easier for foreign governments to exert undue influence in the United States?

ANSWER: Our existing corporate formation regime leaves us dangerously exposed to foreign governments seeking to exert influence in the United States illegally. Our Founders made clear their belief that foreign governments should have no role in U.S. elections.[35] Congress has sought to protect our elections from foreign interference, but companies formed anonymously in the United States make it difficult to keep foreign money out of our election campaigns.

Anonymous companies can be used to conceal nationality, because a person from one country can form anonymous companies in many other countries.[36] This poses challenges to enforcing laws that proscribe foreign nationals' activities and to financial institutions attempting to determine the risk presented by a customer or transaction.

QUESTION: Along with my colleagues Senator Whitehouse and Senator Durbin, I have introduced the Stop Secret Foreign Interference in Elections Act. This legislation would: (1) require 501(c) organizations that accept foreign donations to disclose their foreign donors if they engage in political spending, (2) require senior executive and financial officers to certify on Federal Election Commission forms that (i) they have done their due diligence to ensure that no foreign money has been spent on the disbursements and (ii) they have not spent any foreign money on campaign related disbursements, and (3) require organizations spending money in elections to verify who their donors are and report suspicious donations.

a. Would requirements that mandate increased transparency in election spending address the anonymity problem that shell companies pose?

b. What else can we do to ensure transparency in election spending at the federal level?

ANSWER: Increased transparency in election spending would help investigators

and the public detect foreign interference in our politics more quickly. Foreign interference in our elections harms our national security. Because of the consequences of foreign interference, our focus should be interdiction, not investigation after the fact. The disclosures required by the Stop Secret Foreign Interference in Elections Act[37] would aid in interdiction. The requirement to report disqualified donations within 15 days is particularly important, because those reports could help investigators detect state-sponsored interference at its earliest stages.

Anonymous companies are the most critical threat not only to campaign finance, but to financial integrity more broadly. The Stop Secret Foreign Interference in Elections Act would be most effective if it were combined with legislation that effectively bans anonymous companies, the Shell Company Abuse Act,[38] and a cross-border funds transfer reporting requirement, which the Treasury Department proposed in 2010 but which was never finalized.[39] Alongside these changes to the legal regime, Congress should require FinCEN to issue an advisory to financial institutions that provides red flags for potential violations of campaign finance laws and an advisory to financial institutions that provides red flags for potential Russian sanctions evasion, similar to the advisories that FinCEN has issued on North Korea[40] and Venezuela.[41]

Congress should also reverse the Treasury Department's move to protect "dark money" donors.[42] To protect our country from foreign interference, the trend should be toward more disclosure and more transparency, not less.

Endnotes

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