

Countering Global Kleptocracy: A New US Strategy for Fighting Authoritarian Corruption

BY NATE SIBLEY AND BEN JUDAH
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Cover: A roll of US bills are bound with a rubber band. (Photo by Getty Images)

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PREFACE

By Senator Sheldon Whitehouse

A new “clash of civilizations” has emerged in the wake of the Cold War. Communism versus capitalism, or conflicts between different religions, are not at the heart of this clash. At the heart of this clash is the rule of law. Countries that observe the rule of law – like the United States – face off against countries that do not. One side seeks transparency, justice, and democracy; the other nurtures corruption, autocracy, and lawlessness.

For authoritarians, like Russia’s Vladimir Putin, operating outside the rule of law is necessary. Their power derives from the ability to bully adversaries and buy allies. They co-opt the institutions of government to protect their power. They engage in self-dealing and thuggery. And they steal. They pillage their own countries in a vicious cycle of theft, bribery and corruption, taking plenty off the top for themselves. None of this would be possible in rule-of-law countries that thrive atop strong foundations of public trust and democratic institutions.

The danger of countries that have fallen to authoritarian kleptocrats is real, and the danger extends beyond the country’s borders. Indeed, most of the threats our rule-of-law world faces emerge from countries operating without rule of law that are sinks of corruption, autocracy and lawlessness.

One might think in medical terms of corrupted nations as untreated sores, capable of putting the health of the rest of the world body at risk. As our world shrinks and flattens, the injustice, the violence, the poverty, the illness, the frustrated rage that a corrupted nation incubates can rapidly spread. Terrorism and international crime are frequently spawned and sheltered in autocratic kleptocracies.

Photo Caption: Azerbaijan’s President Ilham Aliyev (L), Iranian President Hassan Rouhani (C) and Russian President Vladimir Putin (R) leave after posing for pictures ahead of their trilateral meeting in Tehran on November 1, 2017. (Photo by Alexey Druzhinin/AFP via Getty Images)

But the kleptocrat operating outside the rule of law faces a constant danger: that a bigger thief will steal from him the loot that he stole. After enriching himself beyond most people's wildest dreams, the modern kleptocrat must hide what he has stolen and protect his ill-gotten fortune. This leads him to the rule-of-law world's doorstep. The Putins of the world turn to rule-of-law nations to stow their wealth in real estate, luxury goods, financial accounts and shell corporations. There, screened in secrecy, the assets are safe.

We constantly learn more about the ways kleptocrats exploit our systems of law and finance to shelter their stolen lucre. The Panama Papers scandal, involving the infamous law firm Mossack Fonseca, is but one example of schemes that help clients shelter ill-gotten gains from around the globe. But the problem is not a uniquely foreign one, nor is it limited only to small, poor countries. A global dark economy, likely worth multiple trillions of dollars annually, serves these bad actors. Unscrupulous brokers, agents, and attorneys in the world's richest countries join the feast, and shell corporations created for such purposes abound in the United States and other rule of law nations. The participants in these schemes are richly rewarded, but the rest of us pay a terrible price for condoning this misbehavior.

The dark money economy competes with the real economy and drags down economic advancement. It avoids taxation, and thus diverts resources from public institutions of governance and order. It enables bribery and foments corruption and creates an avenue for illicit foreign influence. Crooked money seeks crooked corners of the world to hide, and has a corrupting influence in those corners. It is an evil in and of itself.

But the dark economy's most dangerous feature is what it enables. The dark economy enables the forces of kleptocracy and authoritarianism that clash with our rule-of-law world, by sheltering the assets of corrupt looters of countries. And in its dark corners, experience teaches, the dark economy also shelters funds of terrorists and international criminals, thus enabling terrorism and international crime. It lends itself to corruption and

political interference by autocratic and kleptocratic forces, thus enabling their covert efforts to destabilize democracies. Plus, it's a terrible look for a City on a Hill.

Our rule-of-law world, through the dark economy we condone, foments and rewards the evil forces most dangerous to our rule-of-law world. It is deeply in our national security interest both to stop this aid and comfort to our enemies, and to put their well-paid collaborators in this dark economy out of business.

The pressure to protect this system is immense, however. As the Panama and Paradise papers showed, clever schemers around the globe are eager to reap the rich reward of catering to crooks and kleptocrats. Here in the United States, powerful special interests have pushed back forcefully against efforts to foster transparency in our business laws and campaign finance system. So this won't be easy. But the solution is fairly clear: transparency. Follow the money. End the secrecy. We can do this on our own, and we must. We can also gather with other rule of law nations to apply trade, legal and diplomatic penalties to stop the cheaters.

This has to stop, and Judah and Sibley make a compelling case for the steps that the United States – as the indispensable nation – ought to take on combating global kleptocracy. We must instill greater transparency in our financial system by ending anonymous ownership of trusts and businesses. We must close off the channels through which illicit funds flow by strengthening enforcement of anti-money laundering laws. We need to create robust systems for sharing information about illicit finance among our global partners. We must safeguard our democratic system by repelling foreign influence in our elections and over our governments.

This paper offers a forceful argument for taking these important steps. For the sake of America's reputation abroad and Americans' well-being at home, we cannot be complacent as the threat of kleptocracy looms. I hope Congress heeds Judah and Sibley's calls for reform.



INTRODUCTION

Kleptocracy, or “rule by thieves,” has for too long been disregarded from mainstream foreign policy discussions. It is often overlooked as a peripheral economic development issue: A problem for tax justice advocates and foreign aid workers. Yet it has been shaping international politics and the global security environment for decades. The Biden-Harris administration will have an unprecedented opportunity—and a unique responsibility—to confront this pervasive threat with decisive action.

This chance comes not come a moment too soon. Since the end of the Cold War, corruption has metastasized beyond national borders into a problem of almost unimaginable scale. The United Nations has estimated that \$1 trillion are paid in bribes and a further \$2.3 trillion otherwise stolen annually.¹ Global Financial Integrity, a Washington-based think tank, cites

corruption as a key factor in \$8.7 trillion that vanished from official records of trade between 135 developing countries and 36 advanced economies from 2008-2017.²

Kleptocracy is a blight on international development, governance and democracy, vastly worsening conditions for populations worldwide. The International Monetary Fund has calculated

Photo Caption: The Panama City skyline is seen as revelations about the law firm Mossack Fonseca & Co continue to play out around the world on April 7, 2016 in Panama City, Panama. A report by the International Consortium of Investigative Journalists referred to as the “Panama Papers,” based on information anonymously leaked from Mossack Fonseca, indicates possible connections between people setting up the offshore companies and money laundering. (Photo by Joe Raedle/Getty Images)

that global tax revenues would increase by more than \$1 trillion annually if all countries collected taxes as efficiently as those with the least corrupt governments, providing nearly twice the revenue needed to meet the UN's Sustainable Development Goals.^{3 4}

These figures show that corruption is now a key feature of financial globalization. Yet they are so vast as to run the risk of obscuring the human reality of life and death in societies where the state has been robbed of its capacity to provide security and other basic needs. The true cost of kleptocracy cannot be counted in dollars, but in billions of lives that have been ruined or lost through famine, violence, abuse, and despair. It has been estimated that 3.6 million people a year die from corruption-induced causes, concentrated in the world's most vulnerable economies and poorest populations.⁵ The time for action is now.

Beyond strictly humanitarian concerns, it is no coincidence that the world's most corrupt leaders also continually undermine global security. Authoritarianism and corruption have melded into a single pervasive threat. Ruling elites in China, Iran, North Korea, Russia, Venezuela and other authoritarian regimes are the most prolific abusers of the global financial system, fusing opportunities for illicit self-enrichment with malign geopolitical ambitions. Their corrupt officials are routinely implicated in bribery, sanctions evasion, IP and technology theft, financing of terrorism and other criminal activities. These are the foreign policy tools that inevitably emerge from domestic political systems shaped by, and sustained through, endemic kleptocracy. Corruption is used in all such regimes simultaneously as a tool of repression, to entrench and expand the regime, and to project power beyond national borders.

Therefore, as Senator Sheldon Whitehouse and General David Petraeus observed in 2019, "the fight against corruption is more than a legal and moral issue; it has become a strategic one — and a battleground in a great power competition... Complacency about graft and kleptocracy beyond US borders risks complicity in it — with grave consequences both for the nation's reputation abroad and Americans' well-being at home."⁶

In fact, "following the money" from overseas corruption cases has often led American experts uncomfortably close to home. All too often, it is unwitting or unscrupulous Western professional services providers who launder, conceal, and claim lucrative commissions from funds derived from transnational crime and corruption. This is not a case of "bad apples" but a structural problem. The kleptocracy that afflicts developing countries and powers authoritarian regimes is not only facilitated but *incentivized* by offshore tax havens and poorly-regulated major financial centers, some of the most significant of which are located within the United States itself. In this way, the proceeds of kleptocracy find their way into democratic societies as well, with an increasingly corrosive effect on their own political, legal, and financial institutions.

President-elect Biden will assume office amid a sea change in attitudes towards corruption. Despite the secrecy surrounding the murky world of transnational kleptocracy, there is now growing public awareness of how it works in practice. In 2016, the Panama Papers - a leak of 11.5 million documents from offshore law firm Mossack Fonseca - offered an unprecedented glimpse into the methods used by political elites to move unexplained wealth worldwide. Thanks to a new collaborative model of investigative journalism, similar leaks are emerging with astonishing frequency, notably the Paradise Papers in 2017 and the Luanda Leaks in early 2020. Most recently, the FinCEN Files highlighted the problematic relationship between financial institutions responsible for reporting suspicious financial activity and the under-resourced government agency tasked with analyzing the data. The harmful effects of transnational corruption have also been illustrated by a string of high-profile criminal cases in recent years. These include Malaysia's 1MDB scandal, the prosecutions of various high-level Venezuelan officials, and ongoing inquiries into alleged money laundering by Ukrainian oligarch Ihor Kolomoisky. Most obviously, the Special Counsel investigation of Russian interference in the 2016 US presidential election had the effect of opening many Americans' eyes to financial entanglements between their own political elites and those of some of the most corrupt countries on Earth.

This changing perception of transnational corruption reflects the acute strategic challenge facing the next administration. Kleptocracy continues to devastate the developing world while fueling almost every major threat to global security, poisoning international markets, and undermining democracy. This problem is far more serious and pervasive than the caricatures of Cold War despots hoarding gold bullion, or even Russian “oligarchs” enjoying the high life in London, would tend to suggest. Ultimately, countering global kleptocracy is not a matter of targeting isolated instances of corruption around the world, but winning a competition to shape the global economy in the 21st century. Tackling global corruption is not a distraction from dealing with China, Russia and other strategic competitors, but central to it.

Every so often, a major threat or crisis compels the US government to examine systemic vulnerabilities in its own financial system. In the last decades of the 20th century, the War on Drugs resulted in new legal authorities and unprecedented resources for law enforcement to target the financial proceeds of crime. The terrorist attacks of September 11, 2001 likewise resulted in sweeping new powers with which US intelligence and law enforcement agencies could pursue the funders of terrorism through an increasingly sophisticated global financial system. We face no less a challenge now, in the shape of an adversarial China intent on reshaping the global order to its own ends, a hostile Russia bent on sowing discord within its perceived enemies’ ranks, and the broader upheavals of ongoing geopolitical realignment. Kleptocracy has fueled these developments, yet efforts to upgrade America’s financial defenses and tools of economic statecraft have only just begun.

The United States’ approach to transnational corruption and other forms of illicit finance has not always fallen behind the curve. In 1977, America became the first country to ban its own companies from bribing foreign officials through the landmark Foreign Corrupt Practices Act. In 1986, it became the first country to criminalize money laundering at the federal level. In

2010, it launched a dedicated interagency Kleptocracy Asset Recovery Initiative. And in 2016, it became the first country to introduce sanctions targeting human rights abuses and corruption in the form of the Global Magnitsky Act. Working multilaterally, the US played a leading role in launching the Financial Action Task Force (1989), as well as shaping the OECD Anti-Bribery Convention (1997), the UN Convention Against Corruption (2003), and other important international agreements. President George W. Bush introduced a National Strategy to Internationalize Efforts Against Kleptocracy as early as 2006, while President Barack Obama launched a US Global Anticorruption Agenda in 2014. These and many other examples show that, more than any other country, the United States can innovate, adapt, and lead the rest of the world in beating back kleptocracy if it so chooses.

Indeed, America has a unique capacity and special responsibility to take on kleptocracy and other forms of illicit finance. This is because the United States alone bears the “exorbitant privilege” of economic hegemony while overseeing the global reserve currency. This gives the US government tremendous political leverage worldwide and means that even seemingly minor regulatory measures enacted in Washington, DC can send shockwaves through the entire global financial system.

The Biden-Harris administration should use this power to trigger another transformational moment in America’s decades-long struggle against corruption. Encouragingly, the President-elect has in fact already committed to doing so. In a March 2020 *Foreign Affairs* article, he outlined plans for a multilateral Summit for Democracy that would put countering global kleptocracy at the heart of US foreign policy:

“...the United States will prioritize results by galvanizing significant new country commitments in three areas: fighting corruption, defending against authoritarianism, and advancing human rights in their own nations and abroad. As a

summit commitment of the United States, I will issue a presidential policy directive that establishes combating corruption as a core national security interest and democratic responsibility, and I will lead efforts internationally to bring transparency to the global financial system, go after illicit tax havens, seize stolen assets, and make it more difficult for leaders who steal from their people to hide behind anonymous front companies.”⁷

President-elect Biden has also committed to addressing domestic vulnerabilities to malign foreign influence:

“I will propose a law to strengthen prohibitions on foreign nationals or governments trying to influence US federal, state, or local elections and direct a new independent agency—the Commission on Federal Ethics—to ensure vigorous and unified enforcement of this and other anticorruption laws. The lack of transparency in our campaign finance system, combined with extensive foreign money laundering, creates a significant vulnerability. We need to close the loopholes that corrupt our democracy.”⁸

Strange as this central focus on corruption may sound to the US foreign policy establishment, it is by now hardly a radical agenda – or even a partisan one. Many people will remember the 116th Congress as one of the most divided in living memory, but advancing an unprecedented raft of anti-kleptocracy legislation was one of the few areas in which lawmakers from both sides of the aisle felt strongly enough to put aside their differences. It was a process in which the US Helsinki Commission, with its decades-long mission to fostering bipartisan cooperation on human rights, security and economic issues, played a leading role. This momentum culminated in the passage of the Anti-Money Laundering Act of 2020 (as an amendment to the National Defense Authorization Act), which mandates the most significant upgrades to America’s financial defenses in nearly two decades.

President-elect Biden’s commitment, combined with ongoing congressional efforts, reflects a key area of bipartisan understanding in which it should be possible to expedite domestic reforms that end America’s current status as a magnet for dirty money.

The Biden administration can then take this agenda overseas by making countering kleptocracy a central pillar of US foreign policy and of the planned Summit for Democracy. Among democratic partners the United States needs a clear diplomatic agenda, regrouping allies in the G7, OECD and NATO to pass their own bold reforms against illicit finance. This can only be achieved by working closely with like-minded partners such as the European Union, the Five Eyes countries, and strategic allies such as Japan and India. Renewed American influence and leadership can then be leveraged through other multilateral organizations and institutions such as the G-20, World Bank, International Monetary Fund and Financial Action Task Force to pressure corrupt regimes.

Taking on kleptocracy also offers a way for the United States to distinguish itself from strategic rivals, especially the Chinese Communist Party and its disingenuous anti-corruption campaign. At some point in 2021, the United Nations General Assembly will hold a once-in-a-generation Special Session on corruption that could set the international agenda for decades to come.⁹ As China and Russia’s leaders work to seize key anti-corruption institutions and build a new global consensus that shields them from accountability, a US platform that consists of past victories, a decent enforcement record, and delayed reforms will not be good enough. A bold international agenda against corruption, by contrast, will represent a renewed statement of values and the message that the “swing states” of the international order need to hear.

This paper provides a policy blueprint for achieving what the US now urgently needs: A comprehensive strategy for confronting authoritarian corruption and countering global

kleptocracy. The first section sets out domestic reforms needed to defend America's financial system. The second section outlines measures to target corruption overseas, while the third proposes initiatives to renew US global leadership against kleptocracy. In the final section, we set out a sequential checklist containing 70 policy recommendations for both the Executive Branch and Congress.

These proposals will enable the United States to assert new global standards and lead initiatives that can unite democratic allies in a common cause, bring billions of people closer to the promise of democracy, and gradually transform the global economy into a hostile environment for authoritarian kleptocrats

who seek to abuse it. It is a task on which America's own democracy, security and prosperity ultimately depends.

We are grateful for the support of the Smith Richardson Foundation in compiling this paper; and to the many leading experts who imparted their time and insights during our research, including many former and serving US officials. Any errors are, of course, our own. We do not endorse any specific legislation, but have cited relevant bills for ease of reference and to illustrate the growing momentum behind US anti-kleptocracy efforts. We hope the following report will help in its own small way.

Nate Sibley and Ben Judah



DEFENDING AMERICA'S FINANCIAL SYSTEM

Start Funding the Fight Against Kleptocracy

US government agencies tasked with fighting global kleptocracy and other forms of illicit finance are world leaders - but they are also severely under-resourced in relation to the scale, complexity and seriousness of their mission.

To take just one example that recently made headlines, the Financial Crimes Enforcement Network (FinCEN) serves as the US financial intelligence unit. Its broad range of statutory responsibilities includes administering and enforcing the Bank Secrecy Act of 1970, the foundational legislation on which the US anti-money laundering (AML) system is built and regulated. This involves processing millions of "Suspicious Activity Reports" and other disclosures submitted by the private sector each year, analyzing complicated financial threats, and assisting other law enforcement agencies--including from

other countries--with complex investigations. FinCEN also implements "Special Measures" sanctions against jurisdictions and financial institutions that pose strong money laundering risks. These are discussed in more detail below.

To perform this important national security role, FinCEN has only around 300 staff and a budget of just \$118 million per year (a figure unchanged through 2017- 2019, though an extra \$10 million has been requested for 2020).^{10 11} This means that, despite the central role FinCEN plays in safeguarding the US financial system and upholding national security, its annual funding amounts to roughly the purchase cost of one F-35 fighter jet. Meanwhile, financial institutions in the US and

Photo Caption: The American Flag hangs in front of the New York Stock Exchange in lower Manhattan on September 21, 2020 in New York City. (Photo by Spencer Platt/Getty Images)

Canada now collectively spend \$31.5 billion on anti-money laundering activities annually, primarily in order to comply with the very regulations overseen by FinCEN itself.¹²

It is therefore hardly surprising that the recent FinCEN Files leaks portrayed an agency that, despite the best efforts of overworked and undercompensated officials, struggles to keep pace with the volume of financial intelligence being sent to it by the private sector--some 2.6 million reports of suspicious activity in 2019 alone, up from 1.9 million in 2014.^{13 14} On average, each FinCEN employee now has the impossible task of investigating more than 4,000 such reports from banks each year.¹⁵

FinCEN may be a severe case but other departments and agencies currently tasked with countering kleptocracy would also benefit from resources commensurate to the challenges they face. The FBI now has five International Corruption Squads based in Los Angeles, Miami, New York, and Washington, DC.¹⁶ But their budget, which is drawn from a separate fund administered by the Department of Justice, is only around \$3 million. It is important to recognize how resource-intensive the cross-border investigations undertaken by these Squads can be compared to domestic cases. Typically, they involve the most sophisticated money laundering techniques, much of the evidence is located overseas, and US officials have to interact with foreign counterparts who may or may not be cooperative. To support the FBI in pursuing transnational corruption, Congress should permanently increase and protect the funding and other resources available to the FBI International Corruption Squads.

At the Department of Justice, the special team tasked with pursuing transnational corruption cases - the Kleptocracy Asset Recovery Initiative located within the Criminal Division's Money Laundering and Asset Recovery Section - has grown from its inception in 2010 to around 20 prosecutors today. While there are no major concerns about their access to resources needed to successfully prosecute these complicated cases, further expanding this team would significantly enhance the reach

of one of the US government's most cost-effective methods of countering kleptocracy: Seizing the assets of perpetrators, which has recouped some \$3 billion to date (though much of this is earmarked for return to victims and countries of origin).

Another department that plays an under-appreciated role in deterring and detecting kleptocracy is the Internal Revenue Service. A recent Government Accountability Office report found that the IRS's capacity to pursue complicated tax evasion schemes of the kind favored by international criminals has declined markedly in recent years. In particular, between 2011 and 2017 there was a 27 percent reduction in staff involved in enforcement activities, with the result that the number of individual returns audited declined by 40 percent over the same period.¹⁷ This is important from a counter-kleptocracy perspective because - beyond the obvious illegality and unfairness of tax evasion by high net worth individuals - IRS investigations often uncover other irregularities that can lead to further, more serious charges.

The most important recommendation is therefore also the most straightforward: The administration and Congress should review funding requirements for agencies tasked with fighting illicit finance and allocate resources proportionate to the national security value of their work.

Refocus America's Efforts Against Illicit Finance

US government departments and agencies tasked with countering illicit finance are invariably focused on drug trafficking, terrorism financing, or both. This is reflected not only in their names but in their working culture and the incentives provided to officials to pursue investigations. If a potential case does not involve an explicit nexus with terrorism or narcotics, it is often much harder for them to justify the allocation of limited resources.

These are serious threats and their prioritization is entirely understandable in the wake of the decades-long Wars on Drugs

and Terror. But they no longer accurately reflect the range and balance of illicit finance threats facing the US.

It would therefore be beneficial for the Executive Branch to reframe its efforts as a comprehensive approach to “threat finance” that encompasses not only drug trafficking and terrorism but also cybercrime, transnational organized crime, serious fraud, human trafficking, and the myriad other financial threats now facing the US - including, of course, kleptocracy. This would recognize that financial threats to US national security come from increasingly diverse sources, but are also often interwoven.

Practically, this would begin with the administration renaming the Under Secretary and Office for Terrorism and Financial Intelligence at the Treasury Department to the Under Secretary and Office for Threat Finance. But more than a simple rebranding exercise, it should also be viewed as the first step towards rebalancing priorities on an operational level.

Implement a US Cross-Border Payments Database

The ability to monitor all cross-border electronic transmittals of funds is one of the most obvious and powerful tools that could be provided to US law enforcement in the fight against international money laundering, as former senior Treasury Department officials have noted.¹⁸ This has the potential to fundamentally recast the US AML regime, complementing law enforcement’s reliance on banks to report suspicious activity by giving them direct access to financial data in real time. By effectively cutting out the middleman, this could even help reduce compliance burdens for financial institutions.

In fact, Congress authorized the creation of a cross-border payments database in 2004 but the Treasury Department has yet to implement it, though it did carry out a feasibility study in 2009 that embraced the idea (though with significant qualifications).^{19 20}

More recently, when FinCEN made around 4 million international wire transfer datasets available to the FBI for analysis as part of efforts to counter Russian illicit financial flows, the latter was able to “expand its understanding against Russian-linked offshore financial networks, identified a variety of new FBI targets, and enhanced FBI understanding of existing investigations.”²¹

Other countries including Australia, Canada, India, Indonesia, Norway and Romania have implemented some version of this model, albeit with varying degrees of success.²² It is one of many areas in which the US should be poised to lead with the introduction of a new global standard. Recent technological advancements mean that a US database would likely be easier to implement and more effective in 2020 than when it was first approved, promising a transformational boost for America’s fight against kleptocracy and other transnational crimes.

Expand the Anti-Money Laundering System Beyond Banks

The Bank Secrecy Act of 1970 forms the backbone of the US AML regime. Among other obligations, it requires financial institutions to maintain strong AML compliance programs and, as mentioned above, file Suspicious Activity Reports with FinCEN. The AML regime has been updated and expanded several times, notably by the USA PATRIOT Act in 2001, but significant vulnerabilities remain.

In particular, the relatively narrow scope of the Bank Secrecy Act has been consistently flagged by the Financial Action Task Force as one of two major deficiencies of the US AML system (the other being failure to collect corporate beneficial ownership data).²³ While depository financial institutions are required to flag suspicious transactions by their customers, many other so-called “gatekeeper” professions at high risk of being exploited for money laundering have no such obligation. For example, it is perfectly possible for kleptocrats and other financial criminals to circumvent AML checks simply by using foreign bank accounts when dealing with US professionals outside the regulated financial sector.

Unscrupulous lawyers are of particular concern given their unique range of relevant skills. They can create the legal structures used for money laundering schemes, including shell companies and trusts. They can, obviously, provide expert legal advice on personal, financial, business and if necessary, criminal matters. They can protect their clients' privacy and reputation through vexatious lawsuits and promote their interests through advocacy and lobbying. They can even directly handle clients' funds through Interest On Lawyer Trust Accounts (IOLTA) and other client trust accounts.²⁴ And unlike other professionals, they can resist law enforcement inquiries by asserting attorney-client privilege.

But accountants, incorporation agents, lobbyists and PR firms, real estate agents, art and antiques dealers, or luxury goods vendors are also routinely implicated in money laundering schemes. The FBI has expressed special concern over the \$10 trillion under management in US private equity and hedge funds effectively operating without any AML oversight.²⁵ Educational and cultural institutions are also highly vulnerable to tainted funds, given that kleptocrats often send their children to be educated in the US and routinely engage in philanthropy to whitewash their reputations.²⁶ Even high-profile celebrities and their agents are routinely lured into boosting the prestige of dictators and their pampered families by accepting exorbitant fees to perform at family weddings, sporting events and other social occasions.

Bringing these businesses and organizations under the remit of AML regulation is a necessary and urgent step towards restricting kleptocratic access to the US financial system and wider economy. In fact, many of them have already been designated as "financial institutions" that should be subject to Bank Secrecy Act requirements, but have been omitted or exempted from this regime under subsequent regulations.²⁷ But the Treasury Department can re-issue regulations, and in any case the Secretary of the Treasury has expansive authority to designate any sector "whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters."²⁸

Treasury should begin enforcing these Bank Secrecy Act obligations more broadly with respect to these high-risk professions, though of course it is likely that requirements will need to be tailored to the nature and capacity of businesses in each sector. Doing so would not only vastly expand the quality and quantity of financial intelligence gathering but inculcate stronger ethical awareness—or at least concern about reputational harm—throughout the professions, meaning that dirty money is more likely to be turned away in the first place. In the absence of such action by the Executive Branch, the Rejecting Enemy Payments through Enforcement and Leadership (REPEL) Act would require this expansion in any case, though it has yet to be formally introduced in Congress.

As noted above, FinCEN is already chronically under-resourced and the expansion of the anti-money laundering regime beyond traditional banks would place considerably more strain on the agency. Properly resourcing FinCEN to process, share and analyze the data it collects is therefore a prerequisite.

This process would also align the US AML system more closely with that of the EU and UK, which already regulate these professions, creating a united transatlantic front against illicit financial flows.

End Anonymous Ownership of US Companies and Trusts

Any serious effort to tackle transnational kleptocracy must include measures to ban the anonymous ownership of shell companies, the ubiquitous "getaway vehicles" of contemporary financial crime.

Most Americans still associate shell companies with Caribbean tax havens such as Nevis or the Cayman Islands, but the United States is also a leading global producer of these legal entities. Given that shell companies are often used for legitimate business purposes, this in itself might signify nothing more than the relative size of the US economy. But the "Delaware LLC" has become

synonymous with shady financial dealings, and the same might be said of other US states engaged in a race to the bottom on financial secrecy. In every US state, more personal information must be disclosed in order to obtain a library card than set up a company.²⁹ A 2014 academic study found that US incorporation agents and lawyers asked fewer questions of researchers posing as terrorism financiers and other criminals who wanted to set up a shell company than those of almost any other country.³⁰ It is therefore hardly surprising that a 2011 World Bank study of grand corruption cases from around the world found that shell companies registered in the US were used more often than those of any other country to facilitate money laundering.³¹

The prevalence of US-registered shell companies in facilitating global crime and corruption has led experts to consistently rank the United States alongside Switzerland and the Cayman Islands as one of the worst financial secrecy havens in the world.³² It is also repeatedly highlighted by the Financial Action Task Force as a major vulnerability in the US financial system and one of two areas in which the United States remains non-compliant with its obligations.³³

The problem does not lie with shell companies per se, but the ability to create and control them anonymously. This is possible when the jurisdiction in which they are incorporated requires little or no personal information to be disclosed to authorities about the “beneficial,” as opposed to legal, owners. It is therefore a common practice for criminals to use unwitting or unscrupulous US incorporation agents or lawyers as frontmen to put their names on the paperwork. Sophisticated operations go beyond offering such services on an ad hoc basis, creating pre-packaged networks of shell companies that have been “aged” to provide a veneer of legitimacy, and which can be transferred to the criminal’s control at the click of a button with no questions asked.

This ability to conceal personal identity and the origins of stolen funds has made shell companies a feature of almost every

recent major kleptocracy case: The last half-century’s weapons of mass corruption.

The first step towards addressing this problem is to create a register of corporate beneficial ownership requiring US companies to disclose who really owns them. No one would argue that this is a perfect solution. Criminals will continue to provide misleading information. But as any investigator will affirm, the presence of misleading information itself can often provide law enforcement with powerful clues. Just as importantly, the incorporation agents and lawyers who set up shell companies for kleptocrats would be forced to choose between turning dubious clients away or lying on their behalf to the authorities. These benefits hold whether such a register is accessible only to law enforcement or searchable by the general public.

Legislation to address shell company anonymity was first introduced in 2008, but it was not until 2019 that the US House of Representatives finally passed the Corporate Transparency Act.³⁴ With bipartisan backing, this has now been incorporated into the Anti-Money Laundering Act of 2020 and included as an amendment to the National Defense Authorization Act. The passage of this legislation ending anonymous shell company ownership represents a foundational and long-overdue upgrade for the US AML regime.

One of the primary criticisms of the beneficial ownership register mandated by this legislation is that it would only be accessible to law enforcement and financial institutions conducting customer due diligence. In the UK, a publicly accessible registry has been operating successfully since 2016.³⁵ This has allowed researchers and journalists to undertake groundbreaking analysis that has revealed widespread misuse of UK shell companies and advanced our understanding of how they are used in money laundering schemes; as well as to suggest improvements to the design of the register.³⁶

Others have voiced concern that a US register would place an undue compliance burden on small businesses. Again, evidence shows that this has simply not been the case in the UK. Additional reservations over privacy and the potential for improper use by law enforcement can be mitigated and, ultimately, must be weighed against the serious national security consequences of Congress's repeated failure to act.

A related, albeit understudied, area is the use of US trusts to conceal money laundering activities. We know from the Panama Papers and other investigations that lawyers are increasingly directing wealthy clients who value privacy above all else away from shell companies towards more complicated ownership structures.³⁷ For example, in South Dakota, Chinese billionaires are joining wealthy Americans in the use of trusts to conceal their fortunes from tax authorities (and each other).³⁸ A register of the beneficial ownership of trusts that is accessible to law enforcement would help address this vulnerability and bring the US into closer alignment with the EU and UK.

Support Money Laundering Whistleblowers

Financial intelligence gathering through Suspicious Activity Reports and other measures is obviously useless where financial institutions themselves are complicit in, or negligent towards, money laundering. In such cases, whistleblowers often provide the only hope of uncovering wrongdoing.

One of the most overlooked yet significant developments under the Anti-Money Laundering Act, therefore, is the introduction of a long-overdue whistleblower rewards program for potential Bank Secrecy Act violations. Based on the highly successful SEC whistleblower scheme, it provides powerful new protections and incentives that should put errant financial institutions on notice.

Under the new law, whistleblowers need not be US residents or even employees of the financial institution in question. They can also report information anonymously.

The Justice Department should therefore prioritize the launch of this program and encourage whistleblowers to begin coming forward as soon as possible. Doing so has the potential to clean up the financial sector faster than perhaps any other measure mentioned here.

Foster Public-Private Partnerships Against Financial Crime

One of the most common complaints from institutions tasked with policing the US financial system is that FinCEN does not provide them with sufficient clarity on how to report suspicious clients and transactions in a way that is useful to law enforcement. While the Treasury Department maintains a Bank Secrecy Act Advisory Group and launched FinCEN Exchange in 2017 to try and improve communication, it does not seem to have fostered the level of engagement that was originally envisaged. This stands in contrast to the UK's Joint Money Laundering Intelligence Taskforce, through which officials from law enforcement agencies and financial institutions meet each week under classified conditions to discuss specific threats.³⁹

On the other hand, FinCEN has recently sought to improve cooperation with the private sector on new approaches to AML through meetings held under its Innovation Initiative, and recently launched a consultation process on significant regulatory changes to help financial institutions better understand and implement their reporting requirements under the BSA.⁴⁰ ⁴¹ Ongoing efforts to strengthen these formal channels of communication and bonds of trust between policymakers, law enforcement, and the private sector will be especially important in the wake of the FinCEN Files leaks and should be treated as a priority.⁴² The Anti-Money Laundering Act of 2020 includes several provisions to improve private sector engagement, notably the reinvigoration of FinCEN Exchange. FinCEN would also benefit from clarifying the role of the Bank Secrecy Act Advisory Group, to make it a central and effective platform for private sector engagement.

Another important development included in the Anti-Money Laundering Act is the introduction of at least 12 FinCEN liaison officers to improve cooperation with both US state governments and foreign financial intelligence units. This may be modeled on the UK's new but increasingly influential Serious and Organized Crime Overseas Network (SOCnet), which deploys illicit finance experts to embassies in high-risk jurisdictions. As in other areas, greater alignment in how the two biggest global financial centers approach international cooperation against kleptocracy is a welcome development.

Finally, many have expressed concern over the bank examiners who assess whether financial institutions maintain an “effective and reasonably designed” AML program that complies with the requirements of the Bank Secrecy Act. Though the relevant regulations are set by FinCEN, bank examinations are conducted by the Office of the Comptroller of the Currency.⁴³ Financial institutions have complained of a “box-checking” exercise, whereby examiners do not have discretion to evaluate AML compliance programs in their totality and penalize banks for minor technical infringements. On the other hand, some AML advocates complain that bank examiners are not thorough enough in their assessments. It is therefore encouraging that the Anti-Money Laundering Act mandates further training for examiners as well as a study of the Bank Secrecy Act examination process.

Improve Financial Intelligence Gathering

Closely related to the issue of strengthening public-private partnership is the issue of how to improve the financial intelligence reports received by FinCEN and used by law enforcement in criminal investigations.

The US AML system relies on financial institutions to supply FinCEN, and by extension law enforcement, with accurate, timely, and useful information through Suspicious Activity Reports and other reporting mandated by the Bank Secrecy Act. Financial intelligence gathering is therefore effectively outsourced, in the first instance, to the private sector.

There is nothing wrong with this in principle, but in practice the quality and quantity of information supplied varies widely. Some financial institutions apparently never send Suspicious Activity Reports; others overwhelm FinCEN with blizzards of “defensive,” unmeritorious filings to preemptively shield themselves from liability. The training and retention of qualified and experienced staff in bank compliance departments who can make sound judgements on the necessity of filing reports, and then do so to a high standard, is also an issue.

It is important for FinCEN and the law enforcement agencies who rely on information provided in Suspicious Activity Reports to engage with the private sector and ensure it receives as much feedback and training as possible. Indeed, providing more information to compliance departments on what constitutes a useful Suspicious Activity Report was one of many improvements mandated under the Anti-Money Laundering Act. It is also important to ensure that report submission forms themselves provide as little discretion (so as to avoid human error) and as much guidance as practicable without sacrificing flexibility. This will improve the relevance and quality of information received by FinCEN.

One of the most promising innovations of the Anti-Money Laundering Act is a pilot program permitting US financial institutions to share information contained in Suspicious Activity Reports with foreign subsidiaries and affiliates. This will allow them to form a more complete picture of suspicious customers and their cross-border transactions, further improving financial intelligence gathering.

Another area for improvement involves what are referred to in the United States as “Politically Exposed Persons” (PEPs), meaning customers whose status as public officials may involve heightened corruption risks. First, there is no authoritative global list of PEPs produced by the US government (or at least endorsed by it). This creates uncertainty for financial institutions, who rely on open source information or proprietary

private sector lists when screening customers. Second, financial institutions are not obligated to treat US officials as PEPs, meaning that the latter (and any foreign financial entanglements they may have) are not automatically subject to screening or enhanced due diligence as foreign officials might be. By fixing these loopholes, Congress would strengthen the private sector's ability to detect and report corrupt public officials both at home and abroad.

Make Professional Enablers of Transnational Corruption Accountable

In October 2020, the US Department of Justice announced that Goldman Sachs had admitted to conspiring to violate the Foreign Corrupt Practices Act by paying over \$1 billion in bribes to Malaysian and Abu Dhabi officials to obtain lucrative business, including underwriting around \$6.5 billion in bond deals for Malaysia's 1MDB development fund.⁴⁴ The banking giant resolved the international investigation by paying around \$2.7 billion. It also withheld \$174 million in compensation from its executive team in recognition of their oversight failures. One Goldman Sachs banker has pleaded guilty and another is awaiting trial.

The case was unusual not only for the scale and seriousness of the scandal, but because the professional enablers of transnational corruption became a central focus of the investigation. Despite their central role in facilitating and even incentivizing corruption around the world, the bankers, lawyers, and other professionals who launder money often escape serious consequences.

This is partly because of how the US prosecutes such cases. Whereas individual kleptocrats are likely to face criminal charges and have their ill-gotten gains seized through civil asset forfeiture procedures, major banks and other US companies who knowingly engage in corrupt conduct are often offered what are known as non-prosecution agreements (NPAs) or deferred prosecution agreements (DPAs).⁴⁵ These are essentially financial settlements to make the case go

away. While the "fines" can appear substantial, they often represent a fraction of the bank's profits, and consequently fail as a serious deterrent. Similarly, the reputational cost of settling a corruption scandal is usually minimal compared to the potential financial rewards of continued engagement in corrupt practices. For some repeat offenders, the costs associated with getting caught and dealt with in this way are now (informally) factored into business planning in much the same way as other, more conventional risks. Because of these concerns, the Anti-Money Laundering Act has mandated a review of NPAs and DPAs to ensure they remain appropriate and effective.

While preserving the concept of corporate liability is important, it should not extend to covering bankers and other professionals who *knowingly* commit criminal acts. The Department of Justice should therefore place greater emphasis on prosecuting the professional enablers of corruption - who are, after all, just as culpable as the kleptocrats themselves. The Anti-Money Laundering act authorizes the Treasury Department to levy more punitive fines on serial anti-money laundering scofflaws - up to three times the profit derived from criminal activity. But settlements and fines with large banks will not be sufficient... [etc]. Settlements and fines with large banks will not be sufficient to clean up the global financial system when, by almost all accounts, the only thing their rogue employees really fear is prison. In the meanwhile, US agencies involved in drawing up NPAs, DPAs and other forms of settlement should introduce a "three strikes" rule to deter repeat offenders.

While concerns about the "revolving door" between US politics and lobbying have become a mainstream issue, the same cycle between US law enforcement and firms engaged in corrupt activities is less widely understood. It is not entirely uncommon for former law enforcement officers to advise - or even represent - these firms on how to avoid getting caught, and on securing favorable settlements when they are. While no-one would want to deny former law enforcement officers the chance for

a well-deserved lucrative private sector career following their retirement, there is an obvious risk that their inside knowledge is being misused to avoid the consequences of engaging in corrupt acts. The Executive Branch should therefore consider issuing a time-limited ban on former law enforcement providing lobbying and legal services to private sector firms involved in corruption cases, with due consultation to avoid unfair unintended consequences.

The US should also pressure democratic partners to increase their prosecutions of professional enablers, and provide whatever support is needed for them to do so. The 1MDB case is an outstanding example of how international cooperation can result in coordinated prosecutions across multiple jurisdictions that most countries would not have the resources to pursue alone.

Tackle Trade-based Money Laundering

Trade-based money laundering (TBML) involves moving the proceeds of crime through trade transactions to disguise their origins, for example by forging invoices to misrepresent the true value of goods as they cross borders. Given the scale and complexity of global trade networks, it is one of the most difficult forms of money laundering to detect and is estimated at up to \$8.7 trillion per year.⁴⁶ TBML is growing in popularity as kleptocrats and other criminals seek new ways to circumvent increasingly stringent anti-money laundering safeguards at formal financial institutions.⁴⁷

Despite the fact that TBML likely dwarfs other forms of money laundering, it attracted relatively little scrutiny until recently. In September 2019, Senator Bill Cassidy released a white paper on the national security threat posed by TBML and suggested a systemic approach to using trade data in law enforcement investigations, greater prioritization of TBML by federal agencies and the private sector, and enhanced cooperation with trading partners.⁴⁸ A Government Accountability Office report published shortly thereafter explored these issues in greater detail, and highlighted the potential development of

blockchain systems to improve transparency and auditability in the movement of goods across US borders.⁴⁹ The Executive Branch and Congress should continue to investigate the feasibility of these and other innovative solutions with a view to developing a clear strategy to counter the growing challenge posed by TBML.

Closely related to TBML is the challenge posed by free trade zones, freeports, special economic zones and other geographical areas designated to encourage trade through lower taxes, streamlined administrative procedures and minimal regulation.⁵⁰ The US has more than 270 of these areas, and US officials often have relatively little oversight of what is being stored in them or moved through to other destinations.⁵¹ This has obvious implications for TBML, but also the trafficking of humans, weapons, and illegal drugs through major US cities. The Executive Branch should immediately strengthen inspections of free trade zones, while Congress should conduct a review of their benefits and drawbacks with a view to legislating for greater transparency if necessary.

Remove Tax Incentives for Kleptocrats

The Foreign Account Tax Compliance Act (FATCA) requires foreign financial institutions to report information about customer accounts with US connections to the US Treasury Department, but there is no corresponding responsibility for US banks to report information to foreign governments when their nationals hold US bank accounts.⁵² Moreover, nonresidents do not pay tax on US earnings held in US bank accounts.⁵³

The resulting incentive for kleptocrats to use US bank accounts is twofold: Not only can they safely hide stolen wealth from their home governments in the US, but they can also do so while paying no tax whatsoever. Worse, more than 100 other countries (including all EU member states) *do* reciprocally share such information through the OECD Common Reporting Standard (CRS), isolating America as a uniquely attractive place to anonymize and invest dirty money.⁵⁴ Offshore finance experts

have identified non-membership of the CRS as the primary reason that, despite rising political tensions, wealthy Chinese still primarily choose to hide their money in the US.⁵⁵

To remedy this, the US should not only join the CRS but push OECD partners to strengthen it by incorporating two important elements of FATCA: Severe penalties for non-compliance (the CRS, ridiculously, has none at all) and provision for countries that administer citizenship-based rather than residency-based taxation.

Make it Harder to Launder Money through US Real Estate

In 2016, FinCEN launched a pilot project designed to gather data about the scale and nature of money laundering through US real estate. The first Geographic Targeting Order (GTO) required title insurance agents in New York, Miami and other high-risk cities to determine and disclose the beneficial ownership of legal entities (often shell companies) used in luxury residential real estate deals.⁵⁶

The findings were astonishing: Not only had 30 percent of customers caught under the scheme had previously triggered Suspicious Activity Reports, but the amount of cash being spent on Miami real estate through shell companies decreased by 95 percent in the first year.⁵⁷ These customers clearly did not want law enforcement to know that they were purchasing US real estate, or their reasons for doing so.

The GTO pilot project has since been expanded to 12 US cities and adjusted to capture more useful data, though there have been no further updates on findings by FinCEN. Given that the scheme not only confirmed what many had long suspected—that US real estate is one of the most attractive money laundering vehicles in the world—but also had a deterrent effect on money launderers themselves, it is hard to see why it should not be made permanent and nationwide, with key data findings made public. This is especially important

given increasing reports of foreign buyers simply snapping up real estate outside the major US cities covered by the scheme instead.

Require Kleptocrats to Account for Unexplained Wealth

One of the most frustrating aspects of investigating foreign corruption for US law enforcement—not to mention the victims of kleptocracy—is to observe profligate spending by public officials and their families that far exceeds their declared sources of income. This is, of course, a red flag for corruption. But the possession of wealth is not a crime, and unless law enforcement can obtain further evidence of wrongdoing—which is often impossible when it is located overseas in uncooperative jurisdictions—they are powerless to take further action.

In 2018, the UK introduced Unexplained Wealth Orders (UWOs), a type of court order that allows law enforcement to freeze property that appears to exceed the owner's known sources of wealth. Unusually, the burden of proof in such cases is then reversed and the owner is required to satisfy the court that their wealth derives from legitimate sources. Perhaps unsurprisingly, the first UWO cases faced significant legal challenges, but the scheme recently secured the forfeiture of real estate worth around £10 million from a businessman with links to organized crime.⁵⁸

Like some civil asset forfeiture procedures, illicit enrichment laws do not always sit easily with the presumption of innocence. But with the inclusion of powerful safeguards, they can be a justified and highly effective deterrent against kleptocrats bringing stolen wealth into the United States. In some respects they can arguably be fairer and more transparent than the current system of civil forfeiture, in that they target individuals rather than their assets, providing the former with the chance to defend and exonerate themselves. This is also not an untested concept: Besides the UK, many countries have maintained similar illicit enrichment laws for some time, including advanced democracies such as Australia and Ireland.⁵⁹

With due regard to civil liberties concerns, Congress should therefore explore the feasibility and effectiveness of a US illicit enrichment law.

Stop Giving US Visas to Kleptocrats

The EB-5 investor visa is designed to provide high net worth foreign individuals US residency and a pathway to citizenship in return for significant investment in initiatives that create jobs or other community benefits. Instead, it has become a backdoor into the US for kleptocrats, racked by “fraud and abuse” in the words of Senator Chuck Grassley.⁶⁰ Strengthening scrutiny of applicants and ensuring that their investments go to worthwhile projects should be a priority, pending deeper reforms or even repeal of the scheme.

In addition to visa bans issued under Global Magnitsky Act sanctions, the State Department has the power to ban foreign individuals implicated in corruption or human rights abuses from entering the US under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act of 2020. Unlike other reasons for rejecting visa applications, which must be kept confidential, Section 7031(c) designations can be announced publicly. The State Department should continue to increase the use of these bans, which not only embarrass the individual concerned and prevent them from visiting the US, but also act as a red flag to financial institutions worldwide who will likely then refuse their business.

Moreover, Congress should extend this principle to authorize the Secretary of State to retroactively make public all US visa rejections made on the basis of the applicants involvement in grand corruption, as proposed in the Kleptocrat Exposure Act of 2019.⁶¹ This would shed new light on corrupt actors identified by the US government in the recent past, and also provide a powerful deterrent for the future.

Restrict Foreign Lobbying

In order to insulate US democratic institutions from foreign influence, Congress should take stronger steps to end the

“revolving door” between government and lobbying on behalf of foreign governments and their proxies. While President Trump has instituted a lifetime ban on former administration officials engaging in such activity, building on a previous Executive Order issued by President Obama, the definition of lobbying itself remains hazy and enforcement is accordingly difficult, if it is attempted at all.⁶² Meanwhile, a recent investigation found that more than 50 former members of Congress had worked on behalf of foreign interests in just the past five years.⁶³

The Foreign Agents Registration Act of 1938 (FARA) requires US lobbyists to declare paid advocacy work on behalf of foreign governments. It is an important safeguard against other countries seeking to manipulate US legislation and policymaking to serve their own ends, and stands as an example of best practice internationally. But it was almost entirely unenforced until the past two years, when a series of high-profile prosecutions brought the law to wider public attention.

Despite recent improvements to the FARA regime, some fundamental problems continue to hamper its effectiveness. The Justice Department unit tasked with policing compliance remains under-resourced despite recent staff changes.⁶⁴ There is also confusion among lobbyists over when registration is required under FARA or its domestic equivalent, the Lobbying Disclosure Act (LDA), whose disclosure requirements are less onerous.⁶⁵ This arises particularly when their clients’ links with their home governments are unclear; for example, among state-controlled companies who falsely claim to be privately owned and independently operated.

FARA registration documents leave considerable discretion to those completing them, with the result that the quantity and quality of information disclosed by different registrants varies wildly. Meanwhile, the “foreign agent” label is not only repellent to image-conscious public affairs professionals, but lends itself to being abused for partisan accusations by US politicians and commentators. This risk is arguably heightened by FARA’s

administration by the Justice Department rather than by an independent congressional office (as LDA is).

Many of these problems could be resolved by combining LDA and FARA into a single regime, thus creating a streamlined submission system that improves the quality of data collected while ditching the pejorative label. The definition of lobbying and its various euphemisms also need refining, although a comprehensive classification will always be a moving target. For example, the proliferation of strategic consultancies led and staffed by senior former US government officials has not received sufficient scrutiny. Congress should instigate a review of lobbying classifications to improve public awareness of what constitutes “lobbying” while offering greater clarity for those engaged in it.

Ultimately, the Executive Branch and Congress should attempt to exclude authoritarian influence from US public life by ratcheting up the reputational and legal costs of accepting tainted money from regimes engaged in human rights abuses or significant corruption, to the extent that it becomes practically impossible. This problem goes beyond straightforward foreign lobbying activities within Washington, DC (of which the efficacy is increasingly debatable). It also includes controlling stakes in US media and social media companies, public affairs and public relations campaigns, and philanthropic donations to educational and cultural institutions by authoritarian regimes, their commercial proxies, and their US representatives. Meanwhile, requiring greater disclosure of such activities remains the best defense.

Keep Foreign Money out of US Elections

Perhaps the most controversial but potentially serious vulnerabilities in US political institutions relate to campaign funding. Researchers at the German Marshall Fund’s Alliance for Securing Democracy (ASD) recently found that Russia, China and other authoritarian regimes have spent more than \$300 million interfering in democratic processes more than 100

times in 33 countries in the past decade—and that the frequency of such attacks is accelerating.⁶⁶

The US ostensibly has strong prohibitions in place against foreign funding in its elections, but these laws are riddled with potential loopholes and are not being enforced rigorously.

Based on their research, ASD recommends a series of reforms designed to address these vulnerabilities. These include a broader definition of in-kind contributions; increased disclosure surrounding the use of shell companies, nonprofits and small donors; transparency in online ad purchasing and media outlet funding; and mandatory reporting of offers of assistance from foreign powers.⁶⁷ Various bills have been proposed to address these issues, including the DISCLOSE Act, SHIELD Act, Honest Ads Act and PAID AD Act.⁶⁸

Strengthen Vetting of Foreign Investments

The Committee on Foreign Investment in the United States (CFIUS) reviews transactions in order to determine their effect on national security. CFIUS recently received a welcome boost to its powers and resources through the Foreign Investment Risk Review Modernization Act of 2018, and is widely regarded as an example of best practice that other democracies would be wise to follow.

Yet here too, there is room for improvement. The coronavirus pandemic, for example, has shown how the definition and scope of strategic investments may need to be widened beyond traditional national security concerns. Australia’s recent foreign investment reforms in response to Chinese interference are a good example.⁶⁹ And the perennial problem of foreign entities using shell companies to circumvent restrictions and scrutiny remains.

But perhaps the most significant step the US can take is to encourage vulnerable democracies to adopt their own

foreign investment screening mechanisms. Several important US allies are currently implementing or upgrading their own CFIUS equivalents, notably the EU, UK and Japan. But only 28 countries worldwide have such systems in place, meaning that many vital US security partners remain exposed to subversive financial influence.⁷⁰ The US should actively promote the CFIUS model to these governments and provide assistance and expertise in establishing their own systems. Congress should also explore the possibility of authorizing the sharing of confidential information relating to CFIUS decisions with particularly trusted partners such as the Five Eyes countries.

It is also worth noting that many non-depository financial institutions—notably hedge funds, wealth managers and others routinely handling foreign investments—are not currently required to flag suspicious non-US clients and transactions.⁷¹ This vulnerability can be removed by amending the definition of financial institutions under the BSA, as suggested above.

It is imperative that foreign companies who continue to refuse to comply with US auditing requirements are delisted from US exchanges, as the Holding Foreign Companies Accountable Act of 2020 would mandate.⁷² This includes some of the largest Chinese conglomerates, who routinely merge with—or list themselves as the beneficial owners of—shell companies in order to avoid scrutiny while accessing US capital markets.⁷³

Invest in Winning the Digital and Cryptocurrency Race

The rise of cryptocurrencies, with their dual emphasis on decentralizing monetary control and anonymizing individual users, initially led to widespread concerns about how they might fuel money laundering and related security threats - or even reshape the global economic order.⁷⁴

Eager for new ways to circumvent US sanctions and avoid anti-money laundering safeguards, some authoritarian regimes

have explored the possibility of issuing their own national digital currencies - not “cryptocurrencies” in the true sense but ones over which they could exercise exclusive oversight and control, free of US influence. In Venezuela, the Maduro regime developed and launched its own “Petro” digital currency with Russian assistance, only to find it rendered useless by a promptly issued round of US sanctions. The Central Bank of Russia’s own (far more serious) project to develop a viable “digital ruble” continues towards a possible 2021 launch date.⁷⁵ The People’s Bank of China, meanwhile, currently leads the global race to a digital currency having recently concluded the largest pilot scheme to date: Though early user impressions were less than favorable, and counterfeit wallets have already begun to appear.⁷⁶ ⁷⁷ These efforts are significant because, by circumventing the US dollar, they would hinder or remove America’s ability to detect malign financial activity emanating from these regimes—while increasing their political and economic control over their own populations. But for reasons discussed below, none is likely to present a credible alternative to established dollar-based payment systems for the foreseeable future.

Of greater immediate concern is the use of established cryptocurrencies by rogue regimes and kleptocrats in order to evade sanctions and launder money. For example, North Korea has raised hundreds of millions of dollars through cyber-thefts of cryptocurrency and is reportedly particularly fond of Monero, one of the most secretive “privacy coins” that Western law enforcement agencies find impossible to penetrate.⁷⁸

However, the scale of money-laundering activity involving cryptocurrency remains marginal compared to conventional illicit financial flows. This is partly because cryptocurrencies derive value from the confidence of their users, which in turn is linked to their convertibility to fiat currency. For most criminals, the “golden ticket” of money laundering remains the conversion of illicit funds into clean US dollars. For the foreseeable future, therefore, Bitcoin, Ethereum, and similar currencies will remain supplemental, not alternative, to fiat currencies.

In fact, the blockchain technology underpinning Bitcoin and other cryptocurrencies—an immutable public transactions ledger—has actually made it easier in some cases for law enforcement to expose criminals and their entire networks. Crack one anonymously owned shell company, and you may find one crooked lawyer within a global network. But obtain just one point of identification on a Bitcoin ledger, and you have potentially collared the entire criminal organization, along with proof of all its financial transactions—though secrecy devices such as mixers, tumblers, and emerging so-called privacy coins can complicate matters considerably.

US law enforcement has been highly proactive in policing these developments. Unlike many other high-risk sectors, the Treasury Department already treats cryptocurrency exchanges—services that convert fiat to crypto and vice versa—in the same way as traditional financial institutions, subject to the reporting and due diligence requirements of the Bank Secrecy Act regime. Rogue cryptocurrency exchanges, by contrast, are usually situated outside the United States, refuse to be regulated, and do not gather identifiable information about their customers.

This can pose a serious headache for law enforcement, but cryptocurrency criminals do not operate with impunity. When the BTC-e exchange was suspected of converting billions of dollars' worth of stolen Bitcoin into fiat currencies using a network of shell companies, US authorities moved quickly to shut it down—and continue to pursue the Russian mastermind behind it to this day.⁷⁹ More recently, US authorities seized more than \$1 billion in Bitcoin linked to the infamous Silk Road website.⁸⁰

In such a fast-moving environment, it is critical that both Congress and the Executive Branch remain apprised of the latest developments. They must also be prepared to respond swiftly with policy or legislative changes that ensure law enforcement can continue to aggressively target rogue exchanges and cryptocurrency launderers who provide new financial lifelines for corrupt regimes and kleptocrats worldwide.

Preserve US Dollar Supremacy

The US dollar has dominated international finance since it became the global reserve currency at the Bretton Woods conference in 1944. Although the US accounts for roughly one quarter of global economic activity, its currency is used in around half of all bank loans and international debt securities.⁸¹ This “exorbitant privilege,” as a jealous French finance minister once labelled it, affords the US unrivalled leverage not only in economic but political matters around the world.

US dollar supremacy underpins almost all measures used by the US government to target foreign corruption. Foreign banks comply with US sanctions because being shut out of the US dollar would be a death sentence for them. US law enforcement can assert jurisdiction over almost any crime involving the transfer of US dollars, even if the perpetrators never set foot on US soil.

Unsurprisingly, America's unique ability to use its economic power for political purposes frequently generates resentment among allies and adversaries alike. The European Union recently attempted to create its own payments system to circumvent US sanctions and facilitate trade with Iran. China and Russia, as noted above, are furiously trying to create their own alternative digital currencies.

It has become fashionable to attribute threats to dollar supremacy to Washington's over-reliance on sanctions, though other structural problems within the US economy arguably present a more credible concern. In any case, the lack of a viable alternative makes it extremely unlikely that the dollar will be replaced as the global currency any time soon.⁸² The US dollar provides a lasting, stable, and ubiquitous store of value that is rivalled only by gold and, as distant seconds, the Euro and the Pound.

The Federal Reserve's research into a “digital dollar,” as noted above, is one way in which the US is proactively addressing

this issue.⁸³ But maintaining the US dollar's prime position is an existential concern for the US that surely deserves more expansive scrutiny and longer-term planning. As an initial step,

Congress should therefore hold a series of hearings to explore how the US dollar's status—and America's unrivalled financial leverage—can be preserved into the next century and beyond.



TARGETING FOREIGN CORRUPTION

Recalibrate US Government Efforts to Fight Overseas Kleptocracy

The US government is far ahead of other countries in fighting transnational corruption in many respects, but its structure remains somewhat outdated when it comes to confronting the “weaponized interdependence” that characterizes geopolitical competition today.⁸⁴ As mentioned above, this is partly the result of decades in which successive administrations focused heavily on drug trafficking and terrorism financing, rather than adopting a broader strategy towards the many types of “threat finance” that reflects how they are usually interwoven. In particular, the pervasive role of transnational corruption has been overlooked—though the most recent *National Strategy for Combating Terrorist and Other Illicit Financing* goes some way towards redressing this imbalance.⁸⁵

A recent report by Abigail Bellows of the Carnegie Endowment for International Peace sets out the steps needed to recalibrate

the Executive Branch for fighting kleptocracy.⁸⁶ First, a high-level interagency task-force should be convened to coordinate the complicated task of insulating US institutions from foreign influence while targeting corruption overseas. This panel would be coordinated by the National Security Council and include the Treasury, Justice, and State Departments; law enforcement agencies; the intelligence community; and other relevant government entities. Its purview should extend beyond traditional anti-corruption concerns to address all aspects of US financial security.

Another astute suggestion from the Carnegie report involves some minor restructuring at the State Department.⁸⁷ A

Photo Caption: Venezuelan President Nicolas Maduro (2nd R) reviews an honor guard as he is welcomed by Iranian President Hassan Rouhani (R), in an official arrival ceremony at the Saadabad Palace in Tehran, Iran on January 10, 2015. (Photo by Pool/Getty Images)

senior level anti-corruption representative - perhaps even a new Special Envoy - would be appointed to coordinate with deputy assistant secretaries responsible for anti-corruption efforts in each regional bureau. These leaders would work with a network of specially nominated anti-corruption experts embedded in US Embassies worldwide to highlight the issue, drive engagement with other diplomatic staff, and draw up country-specific anti-corruption strategies. Embassy staff of all levels would then become much more aware of local corruption risks, and much more engaged with local anti-corruption groups - even if this meant losing access to corrupt counterparts in government.

The Countering Russian and Other Overseas Kleptocracy (CROOK) Act, introduced in late 2019, would provide a significant step in the right direction by creating such an interagency task force and installing a network of anti-corruption specialists at US embassies.⁸⁸ These would obviously work closely with the FinCEN foreign liaison officers created under the Anti-Money Laundering Act. It would also create a rapid-response anti-kleptocracy fund to be deployed in support of good governance reforms at moments of historic opportunity such as Ukraine's 2014 Revolution of Dignity.⁸⁹

As always, the US should lead by example. Ending the longstanding practice of awarding US ambassadorial posts to otherwise unqualified political donors would help lend credibility to such efforts.

The State Department's Bureau of International Narcotics and Law Enforcement Affairs should also work with the Treasury Department to produce an annual Global Threat Finance Report, modelled on (or perhaps incorporating) the International Narcotics Control Strategy Report, but with a broader scope that details and classifies countries' progress and vulnerabilities in fighting particularly dangerous forms of illicit finance.⁹⁰ This would complement Treasury's National Illicit Finance Strategy and provide a useful benchmark for wider government efforts,

as well as a valuable resource for the private sector and civil society. With a new anti-corruption network in place at US Embassies worldwide, such a report should not take long to compile and could be updated annually.

Returning briefly to the Carnegie recommendations, the US intelligence community should also be significantly more engaged in the fight against corruption.⁹¹ This would begin with emphasizing the issue in the National Intelligence Priorities Framework, reflected in a new focus in operational intelligence gathering and analysis. In practical terms, this would mean consistently highlighting corruption risks associated with foreign officials and mapping their networks of associates more extensively. The NSC-led interagency taskforce mentioned above would play an important role in coordinating this work. For example, the Carnegie report notes that USAID rarely makes use of classified intelligence when vetting potential aid recipients.⁹²

Criminalize Solicitation of Bribery by Foreign Officials

The Foreign Corrupt Practices Act of 1977 (FCPA) outlawed bribery of foreign officials by US companies and remains a landmark piece of anti-corruption legislation. The US is not only one of just four countries—the US, UK, Switzerland and Israel—among the world's leading 47 exporters who actively enforce against foreign bribery at all.⁹³ It is, and has always been, the world's leading enforcer against foreign bribery by a strong margin.

However, the FCPA regime has one glaring omission in that it does not currently address the pervasive problem of corrupt officials who prey on US companies for bribes. It also arguably puts these firms at a short-term disadvantage against competitors from countries like China who do not prohibit their companies from engaging in corrupt activities.

The answer is not to weaken or repeal the FCPA, as some have tentatively suggested, but instead to focus on strengthening

global anti-bribery standards. Whether they realize it or not, the continued success of US companies operating overseas fundamentally depends upon America's reputation for respecting rule of law. The Foreign Extortion Prevention Act of 2019 would criminalize solicitation of bribes by foreign officials, deterring both them and non-US firms from engaging in corrupt activity. It is one of the most significant actions the US government could take to project rule of law worldwide, gaining the respect of local populations frustrated by local corruption while enforcing a more level playing field for US businesses operating overseas.

The UK's Bribery Act of 2010 included universal jurisdiction over bribery but has barely been enforced, while the EU as a whole has no such law. This therefore represents a significant opportunity for the US to demonstrate global anti-corruption leadership.

Cleaning Up Extractives Industries

Oil, gas, and mining companies that exploit resources in developing countries with poor rule of law represent major corruption risks, as the seemingly endless stream of major bribery cases involving them illustrates. Section 1504 of the Dodd-Frank Act (the "Cardin-Lugar Provision") sought to address the vulnerability (and propensity) of US extractives companies to bribery by requiring them to disclose payments to governments. But the Securities and Exchange Commission has yet to introduce a rule implementing the law fully, despite several attempts - including one which was nullified by Congress. Indeed it may now be the case that new legislation is needed from Congress to enable the SEC to give full effect to the law's original intention.

Worse, in 2017 the US withdrew from the Extractives Industries Transparency Initiative (EITI), which it had joined in 2011. The move was widely regarded as severely damaging to America's reputation as a global leader on anti-corruption.⁹⁴ Section 1504 places no appreciable administrative burden on large extractives companies, and it is hard to understand why the US

government would not want access to this information. Issuing a strong rule to implement Section 1504 and rejoining the EITI should be a priority.

The illicit gold trade in particular is increasingly used by corrupt regimes to circumvent US sanctions, and by individual kleptocrats as a secure store of wealth. In Venezuela, for example, Nicolas Maduro has used revenues from illicit gold sales to successfully maintain the loyalty of security services, while Colombian criminal organizations use Venezuelan gold to launder the proceeds of international drug trafficking.⁹⁵ In fact, a sizable proportion of this illicit trade passes through Miami, one of the largest gold markets worldwide—despite the fact that the US has sanctioned Venezuela's gold sector. US law enforcement is increasingly focused on this problem, and precious metals refineries and dealers are already subject to AML regulation in the US.⁹⁶ Rejoining EITI and implementing Section 1504 would also be beneficial, but it is clear that further congressional inquiry is needed to develop a comprehensive legal regime for countering this rising threat.

Putting the USA PATRIOT Act to Work Against Corruption

Section 311 of the USA PATRIOT Act amended the BSA to provide authority for the Treasury Department to identify foreign jurisdictions, financial institutions, or international transactions as being of "primary money laundering concern." The Treasury Department can then require US financial institutions to disclose various types of information they hold about designated entities, or even stop dealing with them altogether. FinCEN has identified the "vast amount of information" collected through Special Measures as "one of the key sources of enforcement actions against ongoing money laundering concerns including rogue nation states, terrorists and other national security threats."⁹⁷

The current list of entities under Special Measures spans two decades but is far shorter than one might expect. Although Special Measures have been applied relatively sparingly, the recent creation

of a Global Investigations Division within FinCEN signals that they may be used more extensively in future, and FinCEN has declared its intent to do so pending the allocation of further resources.⁹⁸

Special Measures (or the threat of them) can and should be used more aggressively to target foreign financial institutions facilitating corruption and other financial crime. To enable this, the somewhat cumbersome rule-making process could be streamlined. Further, the legislation should be amended to allow for the designation of non-depository institutions not currently included but which are also of money laundering concern. This could mirror the domestic expansion of the BSA to non-financial sectors. As mentioned, the yet-to-be introduced REPEL Act would legislate for this.

Sanctioning Corruption

The Global Magnitsky Act allows the US government to place economic sanctions and visa bans on foreign individuals implicated in human rights abuses or corruption. Like the FCPA, it is viewed as a major landmark in the anti-corruption movement with nearly 200 designations made since the legislation was passed in 2016.⁹⁹

Unlike broader US sanctions programs targeting entire sectors or even countries (for example the Trump administration's "maximum pressure" campaign against Iran), Global Magnitsky sanctions pick out individuals and sometimes immediate members of their illicit financial networks, minimizing wider economic disruption and unintended consequences. The US should continue to carefully expand its use of Global Magnitsky sanctions while adopting a more consistent approach wherever possible. It would also be beneficial to begin designating the professional enablers of transnational kleptocracy: the crooked lawyers, bankers, and others who operate beyond the reach of US law enforcement but play a critical role.

Coordinating these designations closely with allies is imperative as more countries follow US leadership in adopting Global Magnitsky-style sanctions regimes. The UK, for example, is

developing its own sanctions regime after leaving the EU and has a similar provision.¹⁰⁰ By coordinating designations, the US and UK will be able to shut targeted individuals out of both New York and London, the world's two biggest financial centers. The EU is also working towards its own version, as are Australia and Japan, which would further enhance democracies' collective ability to punish and deter corrupt human rights abusers worldwide. The US should encourage these and other democratic partners to introduce and align their own Global Magnitsky programs as soon as possible. To this end, the State Department should restore the office of Coordinator for Sanctions Policy, which played a critical role in strengthening collaboration but was scrapped in 2017.¹⁰¹

A further measure might be the introduction of a new designation targeting State Sponsors of Transnational Organized Crime. Modelled on the State Sponsor of Terrorism designation, this would impose sanctions specifically designed to restrain regimes that systematically engage in egregious acts of corruption. Measures could include restrictions on aid and development assistance; visa bans and financial sanctions on senior public officials, company directors, and other influential figures; or even lifting sovereign immunity to enable civil asset recovery proceedings against property in the United States.

Support Whistleblowers, Independent Media, and Civil Society Groups Fighting Corruption

Stemming illicit financial flows derived from corruption in authoritarian countries ultimately depends on democratic transition and the emergence of stronger institutions. This means that supporting whistleblowers, democratic opposition, independent media, and civil society groups who investigate and expose corruption—often at great personal risk—should be a greater priority.

Major corruption schemes often operate, by necessity and design, on the very fringes of the global financial system, beyond the reach of US regulations and law enforcement agencies. In such cases,

whistleblowers are the only hope of uncovering illicit activity. Given their central importance to almost all financial crime and corruption investigations, much more should be done to incentivize and protect these individuals. While foreign whistleblowers are eligible for some financial rewards, this currently depends on the nature of the case.¹⁰² The Kleptocracy Asset Recovery Rewards Act of 2019 would address this by creating a financial rewards program for whistleblowers who can help identify stolen assets linked to foreign government corruption.

As mentioned above, the Anti-Money Laundering Act also creates a long-overdue Bank Secrecy Act whistleblower rewards scheme. Crucially, whistleblowers need not be US citizens or even employees of the financial institution about which they are supplying information to be eligible for rewards.

Yet financial incentives are of less immediate importance to potential whistleblowers whose assistance to US law enforcement would put them in personal danger. Congress should therefore create a fast-tracked visa scheme that allows whistleblowers and their immediate families to sidestep the relatively uncertain process of applying for asylum.

The same is true of exposing the kind of corruption which has taken root in many international sports organizations. These are routinely infiltrated by the proxies of authoritarian regimes, who rightly view them as ideal platforms not only for self-enrichment but also improving their international prestige. Although scrutiny of these organizations has increased in recent years following a series of high-profile scandals, the Rodchenkov Anti-Doping Act of 2020 now provides another angle of attack by creating a new offense of doping fraud, strengthening whistleblower protections, and extending US law enforcement jurisdiction to include international sports organizations and events.

US efforts to promote free expression abroad and protect journalists in authoritarian regimes are central to countering kleptocracy. This task was challenging, from a messaging point

of view at least, while President Trump decried large swathes of the US media as “fake news.” But there is much that the US government can do to foster the kind of international journalistic and civil society networks that have proved so adept at uncovering transnational corruption in recent years, such as the Panama Papers in 2016 and the Luanda Leaks of 2020.

Yet again, this process begins within the US itself. While the US boasts unusually powerful constitutional protections for free expression, both the representatives of authoritarian regimes as well as individual kleptocrats have become adept at using “strategic lawsuits against public participation” (SLAPP) to suppress scrutiny of their malign activities. The idea is not to directly challenge the findings of investigative journalists or their right to publish the information, but to burden them with crippling legal costs before substantive proceedings even begin. The resulting fear of financial ruin arising from SLAPPs has undoubtedly had a significant chilling effect across media and civil society efforts to expose malign foreign financial influence. Kleptocrats also try to use the discovery process to uncover the sources of compromising information, further deterring journalists and putting their sources in danger. While some states have passed anti-SLAPP laws, their provisions vary considerably. Congress should therefore pass legislation to deter SLAPP actions, for example by limiting costs in public interest cases, and imposing extra protections for journalistic sources.¹⁰³

Overseas, the State Department can and does provide important support for freedom of expression and other human rights through diplomatic channels. The non-governmental but congressionally-funded National Endowment for Democracy and its affiliates also perform a critical role in providing local journalists and activists with training, support through international networks, and a platform to make their voices heard in Washington, DC. Congress should sustain recently increased levels of funding for this important work. The visible independence and proper resourcing of news outlets overseen

by the US Agency for Global Media is also important for exposing global corruption schemes.

The US should also contribute to the Global Media Defense Fund, which trains journalists and provides necessary legal support, established by the UK and Canada and administered by UNESCO.¹⁰⁴ Unilaterally, the US should target more resources towards supporting independent researchers and journalists working to expose and document strategic corruption from China, Russia, and other strategic adversaries in their own countries. Such reporting can mobilize civil society groups and patriots who desire to protect the national sovereignty of their state against political or economic capture by foreign powers. An increase of US support to such investigative groups can increase the impact of a sector already utilizing newly developed technological tools and international networks to expose state-wide corruption.

The Global Magnitsky Act can also be a powerful tool to punish and deter regimes who threaten media and civil society. High-profile designations would send a powerful message about the value America places on promoting freedom of expression worldwide.

Confront Transnational Repression Campaigns by Authoritarian Regimes

In 2014, the Chinese Communist Party launched an expansive global campaign known as “Operation Fox Hunt” to identify and repatriate Chinese nationals accused of corruption – the overseas manifestation of a sweeping anti-graft program within China itself. The program expanded rapidly—including through the complementary “Operation Skynet”—and has now reportedly returned hundreds of suspects to China. Given that China’s judicial process lacks any independence from the Party, it is often difficult to discern whether suspects have been credibly accused of corrupt acts, or whether they are being targeted under that guise because they are perceived to have threatened Beijing’s interests in some way. In a July 2020 speech at Hudson Institute, FBI Director Christopher Wray shed further light on the motivations behind Operation Fox Hunt:¹⁰⁵

“...China describes Fox Hunt as an international anti-corruption campaign—it’s not. Instead, Fox Hunt is a sweeping bid by General Secretary Xi to target Chinese nationals whom he sees as threats and who live outside China, across the world. We’re talking about political rivals, dissidents, and critics seeking to expose China’s extensive human rights violations.

Hundreds of the Fox Hunt victims that they target live right here in the United States, and many are American citizens or green card holders. The Chinese government wants to force them to return to China, and China’s tactics to accomplish that are shocking. For instance, when it couldn’t locate one Fox Hunt target, the Chinese government sent an emissary to visit the target’s family here in the United States. The message they said to pass on? The target had two options: return to China promptly, or commit suicide. And what happens when Fox Hunt targets refuse to return to China? In the past, their family members both here in the United States and in China have been threatened and coerced; and those back in China have even been arrested for leverage.”

Given these concerns, US law enforcement has been highly proactive in efforts to detect and counter Operation Fox Hunt, charging 8 Chinese nationals with related illegal conduct in October 2020.¹⁰⁶ It is critical that the US government continues to expose and disrupt these malign activities through law enforcement action while providing support for other countries to do the same. This task will become even more important as the United States enacts genuine initiatives to reclaim the anti-corruption narrative from authoritarians like Xi who use it as cover to target legitimate political opponents.

Meanwhile, the Kremlin has also perfected the art of abusing Interpol’s “Red Notice” system to hound political opponents

overseas and impede their movement across borders—most prominently Bill Browder, the financier who led the global campaign for Magnitsky sanctions against Russian human rights abusers. The Transnational Repression and Accountability (TRAP) Act of 2019 would attempt to remedy this problem by requiring the US government to demand greater transparency and accountability within Interpol—for example by urging it to penalize or even suspend countries like Russia and China that routinely abuse the organization’s constitution by issuing bogus Red Notices.

Another aspect of extraterritorial “lawfare” by authoritarian regimes involves the abuse of discovery proceedings in US courts to uncover sensitive information about perceived opponents.¹⁰⁷ Given that journalists and their confidential sources are frequently targeted, it would make sense to incorporate measures preventing such conduct into the federal anti-SLAPP legislation proposed above.

Support Efforts Towards Transparency in Tax Havens and Developing Countries

It is no coincidence that small, geographically isolated island nations and other jurisdictions with few human or natural resources seem, disproportionately, to become tax havens. An offshore financial services sector requires little more than an internet connection and a low corporate tax rate, offering an easy path to economic development for such countries.

In addition to threatening the use of sanctions, Section 311, tax reforms and other measures that can undermine the viability of problematic jurisdictions acting as conduits for illicit finance, the US should also pledge to work with the international community to end offshore secrecy as a foreign policy objective. An important element of this will involve providing incentives for those that are prepared to introduce reforms that meet and enforce standards pertaining to anti-money laundering, bribery, and other anti-kleptocracy measures.

The US should create new opportunities for jurisdictions to move away from dependence on tax shelters for their foreign exchange by rewarding genuine integrity reforms with US aid and liquidity support, driving toward a broad reform of the global monetary system. This will also require providing significant support through US and international development agencies to ensure that former target countries have access to the resources and know-how to reshape their economies.

Finally, many key nodes of the global financial infrastructure are privately owned and operated, for example the Society for Worldwide Interbank Financial Telecommunication (SWIFT). The United States, working with international stakeholders, should lead a comprehensive review of these arrangements to ensure appropriate levels of oversight from international organizations and democratic national governments.

A successful policy will depend on the Executive Branch being given more flexibility by Congress, so as to be able to construct and adapt anti-kleptocracy initiatives in response to rapidly shifting political and diplomatic factors.

Project Integrity through Infrastructure and Development Financing

China’s Belt and Road Initiative (BRI) has funneled billions of dollars into infrastructure and investment projects across Eurasia since being launched in 2013. However, it has also become a conduit for corruption, with state-linked Chinese companies offering local elites unprecedented bribery and embezzlement opportunities.¹⁰⁸ This has not only enabled kleptocracy across the developing world, but also plunged many countries into unsustainable levels of debt. In some cases, these countries have been forced to surrender strategic assets to Beijing.

The US may not be able to compete directly with the scale of China’s overseas investments, but it can still offer superior quality and standards when it comes to major infrastructure projects. Ultimately, this is what will allow US-backed projects

to maintain the confidence of private sector investors—who can collectively outspend Beijing and its state-backed enterprises in the longer term. This is the premise behind the BUILD Act and the creation of the Development Finance Corporation (DFC), which is intended to pool and underwrite private sector investments. Working with international partners through the Blue Dot Network, the DFC can provide a genuine and attractive alternative to BRI corruption and coercion by offering basic transparency and accountability measures such as standard contracts, quality certification schemes, and transparent audits.¹⁰⁹

The same is true, in a broader commercial context, for the nascent Economic Prosperity Network. This is currently envisioned as a group of trusted partner countries operating to higher standards on research, trade, education and other areas in an effort to reduce dependence on China in manufacturing and other key industries. Washington should approach the current reassessment of ties with China as an opportunity to drive up governance standards in partner countries worldwide, making them less susceptible to kleptocratic encroachment.

Just as importantly, these efforts should be accompanied by a global campaign to harness dissatisfaction with elite corruption among populations in potential recipient countries. After all, corrupt politicians will not necessarily embrace deals with the United States that bring increased transparency and accountability when they personally stand to benefit from corrupt BRI projects instead. By generating internal pressure to accept and abide by higher standards in potential recipient countries, the United States and its partners can begin to undo the damage wrought across the developing world by China's exported corruption.

Target Corruption through Foreign Assistance

Even the most conservative estimates suggest that trillions of dollars are lost to corruption throughout the developing world

each year. Of course, this easily dwarfs total global foreign assistance spending, including the \$32 billion provided by the US.¹¹⁰ Of that figure, the US Agency for International Development and the State Department spends between \$150 million and 200 million on anti-corruption work annually.¹¹¹ This often involves advice and training for local partners throughout government, the private sector and civil society to strengthen governance standards.

Contrary to public perception, there are stringent safeguards against corruption in the disbursement of US foreign assistance spending and relatively little of it is lost to graft, especially given the severe corruption risks in many of the countries in which USAID and the State Department operate.

Indeed the primary criticism of US anti-corruption efforts in foreign assistance can be characterized as “too little, too late.” As Abigail Bellows of the Carnegie Institute for International Peace has noted, US support for nascent democratic transitions through sustained anti-corruption reforms has often been lacking.¹¹² Backsliding has occurred with alarming frequency, from Ukraine's 2014 Revolution of Dignity to Malaysia's voter backlash against the 1MDB scandal in 2018. Bellows therefore suggests the creation of a special rapid reaction fund to create an anti-corruption “surge” in countries undergoing democratic transitions. This would allow US diplomats and experts to mobilize more effectively in helping local partners shore up key rule of law institutions—and prevent powerful authoritarian adversaries from exploiting the situation to try and influence the new political elite.

This will be especially important in the wake of the COVID-19 pandemic. Healthcare systems are estimated to lose around \$500 billion to corruption at the best of times, but the unprecedented opportunities for fraud, embezzlement and bribery have likely seriously undermined the global response.¹¹³ Bellows further suggests dedicating a meaningful portion of the US global health assistance budget to improving supply chain and procurement transparency in countries most at risk.

Prioritize Anti-corruption Safeguards in US Security Operations

The role corruption played in dooming US objectives in both Afghanistan and Iraq was critical.^{114 115} From the outset of both those conflicts, financial threats were severely misunderstood, and ultimately neglected, by policymakers in Washington as well as commanders on the ground. The state of those countries today derives not from a failure of strength of arms, but from consistent failure to map local power networks, minimize operational corruption risks, target enemy finances, and support the development of robust local institutions.

Building on the lessons learned from Afghanistan and Iraq, the US should fully integrate anti-corruption practices into contingency operations and broader defense institution-building with security partners around the world. Any future US contingency operations should be accompanied by a comprehensive anti-corruption plan from the outset, developed and signed off by senior Pentagon officials as well as US commanders. Disclosure of the beneficial ownership of foreign contractors should become a basic requirement, and the awarding of contracts to foreign firms in which government officials or their family members possess an ownership stake should be prohibited (except where to do so would compromise broader US security interests).

The Special Inspector General for Afghanistan Reconstruction has outlined a series of recommendations that illustrate what such a plan might look like. They include assigning anti-corruption efforts top priority from the outset, properly analyzing local power and corruption networks, limiting financial assistance to what host countries can sensibly absorb, curtailing alliances with malign powerbrokers, and diligently pursuing political solutions to corruption challenges.¹¹⁶ Obviously, the intelligence community would also play an integral role in supporting and informing these efforts. Transparency International has also produced extensive research and guidance on mitigating corruption risks in military operations.¹¹⁷

Incorporate Anti-corruption Provisions into Trade Deals

The United States-Mexico-Canada Agreement (USMCA) which came into effect in July 2020 is the first US trade deal to incorporate explicit anti-corruption provisions. Specifically, it requires the parties to take steps against bribery, protect whistleblowers, promote integrity among government officials, and improve accounting and auditing standards. It also encourages the prohibition of so-called “facilitation payments,” which are currently permitted under the Foreign Corrupt Practices Act, in order to expedite routine government action involving non-discretionary acts.¹¹⁸

The US has tremendous leverage to drive up standards and change norms when negotiating trade deals with other countries. Provisions identical or similar to the USMCA anti-corruption chapter should therefore be incorporated into all future US trade deals.

Return Stolen Assets to the Victims of Kleptocracy

If the long list of reforms outlined above are implemented, the amount of funds confiscated by US law enforcement should be expected to increase significantly. When a specific victim can successfully claim some or all of the funds, returning them may be less of a problem. But when funds were misappropriated from a sovereign state, they are not automatically returned to their country of origin but instead become the property of the US government and are transferred to special funds controlled by the Treasury and Justice Departments. The populations from whom such funds were originally stolen—who include some of the poorest and most vulnerable people in the world—will rightly begin to ask why the world’s wealthiest country has not returned their money.

In fact, the interagency Kleptocracy Asset Recovery Initiative, led by the Justice Department, works hard to repatriate confiscated funds. However, there are often significant legal obstacles and political sensitivities to doing so, most obviously where the

country of origin continues to suffer from endemic corruption. Clearly, it is unacceptable for the US to repatriate funds where there is a significant risk they will simply be misappropriated again or otherwise misused.

Building on the success of the Global Forum on Asset Recovery and the work of its own Kleptocracy Asset Recovery Initiative, the US should clarify and streamline the process by which it holds and returns funds confiscated from corrupt foreign officials, while retaining sufficient flexibility in the process to do

justice in each case. This is an area where there is considerable confusion internationally and would benefit from US leadership to strengthen global standards and international coordination.

The Justice for Victims of Kleptocracy Act of 2019 would offer a modest start by requiring the Justice Department to maintain a public website detailing the amount of funds seized and listing them by country. This would reassure populations that the US intends to return their funds while embarrassing corrupt governments at the top of the list.



RESTORING US GLOBAL LEADERSHIP AGAINST KLEPTOCRACY

Reassert Global Anti-corruption Leadership

America is uniquely positioned to lead the global fight against illicit financial flows derived from corruption and other crimes. If the United States implements the reforms listed above, it will possess an unassailable moral and operational platform from which to project financial integrity overseas. The next administration will immediately be able to take unilateral steps to effectively defend the US financial system while pressuring unscrupulous tax havens and targeting corrupt regimes.

However, it is only through strong and sustained multilateral engagement that the United States can begin to fully cleanse the global financial system of kleptocratic influence. It should therefore immediately begin working with the EU, UK and

other democratic partners to better align AML and anti-corruption laws while coordinating more closely over policy and enforcement. It should also work with these partners to formulate a consistent approach to more problematic partners, for example Turkey and the United Arab Emirates, who provide vital security assistance but whose financial systems are increasingly used to facilitate various forms of threat finance.¹¹⁹ The administration can do this through a wide variety of existing platforms, from high-level channels at the UN and G7 to more specialized groupings such as the Financial Action Task Force and Egmont Group.

Photo Caption: Two workers adjust US flags on the US Capitol in preparation for inauguration in Washington, DC, on January 17, 2013. (Photo by Jewel Samad/AFP via Getty Images)

The bipartisan group of US lawmakers who brought forward the unprecedented raft of anti-corruption legislation this year (much of which has been highlighted above) are also well-positioned to lead the creation of an Inter-Parliamentary Alliance Against Kleptocracy, modelled on the highly influential China group but obviously with a broader scope.

Towards a Global Kleptocracy Initiative

The UN General Assembly's Special Session against corruption in 2021 would be a timely opportunity for the United States to reassert global anti-corruption leadership by holding up its own domestic reforms as new global standards, pressuring allies and partners to follow suit, and confronting authoritarian regimes over their records on countering corruption.

The platform for this would be the launch of a new institution called the Global Kleptocracy Initiative (GKI). This formal group of democratic allies and partners, as well as major donor institutions such as the World Bank and IMF, would begin by endorsing a statement of principles. This would include a renewed commitment (and detailed national action plans) to implement major existing anti-corruption provisions such as the Financial Action Task Force Recommendations; the UN Convention Against Corruption; the OECD Anti-Bribery Convention; and the Open Government Partnership. It would also require participants to commit to the introduction of newer innovations and best practices that have proven successful but not yet become global standards: notably Global Magnitsky-style sanctions regimes, enhanced cooperation and data-sharing between trusted law enforcement agencies, and registers of corporate beneficial ownership.

The next stage would be to develop, implement and enforce these into new global standards regarding financial transparency, law enforcement cooperation and government accountability. The GKI could perhaps also eventually incorporate existing multilateral anti-kleptocracy initiatives like the Global Forum on Asset Recovery, while acting to fill gaps in global anti-corruption governance. One increasingly discussed proposal is the creation of an International Anti-Corruption Court.¹²⁰ This would not necessarily assert jurisdiction over democratic countries with strong rule of law such as the United States, but it could step in when the judicial system in countries that have struggled with rule of law are unable or unwilling to hold corrupt officials accountable—something that would likely be welcomed by their long-suffering populations.

The GKI could become a new dimension of Euro-Atlantic strategic structures. The United States should work to make GKI standards a component of the NATO readiness requirements. The organization's ability to follow and report on corruption threats should also be enhanced, including partnerships with civilian institutions. The US could also encourage major non-NATO allies to join. The Europeans, meanwhile, could make membership a precondition of participation in its European Neighborhood Policy, including the former Soviet republics participating in the bloc's so-called Eastern Partnership. Badly needed standards, such as how to recognize the true extent of state control over institutions or oligarchs, could be hammered out and become a key pillar of Western engagement.



CONCLUSION

To firmly reestablish American leadership in the 21st century, the United States must demonstrate to allies and adversaries alike that it retains the capacity to transform the global order and make it safe for democracy. This is why the adoption of a comprehensive strategy, as outlined in this report, has become so crucial for US interests. In a time when almost all aspects of the international order are threaded through with financial connectivity, ensuring that this infrastructure does not enable corruption, authoritarianism, poverty and global disarray should be a priority for the US government. Flaws in our own financial, legal and political institutions not only facilitate but incentivize malign conduct, rewarding rogue regimes and bad actors while removing any hope of holding them accountable. It is now time for democracies to level the playing field. This is what President-elect Biden, and

concerned lawmakers in Congress, can begin by embracing the agenda outlined in this report.

Lasting and legitimate American leadership will depend on populations worldwide viewing the United States as the guarantor of a global system that allows them to become both prosperous and democratic. While the United States remains a giant financial secrecy jurisdiction at the center of global dark money flows, and so long as it declines to use its unique privileges and powers to take on corruption around the world, that promise will remain out of reach.

Photo Caption: American and United Nations flags fly across from the United Nations in Manhattan on the first official day of the 75th United Nations General Assembly on September 22, 2020 in New York City. (Photo by Spencer Platt/Getty Images)

APPENDIX: 70 POLICY RECOMMENDATIONS ON COUNTERING GLOBAL KLEPTOCRACY FOR THE BIDEN ADMINISTRATION AND 117TH CONGRESS

Actions for the Executive Branch

First Day in the Oval Office

President-elect Biden has made clear his intention to issue a presidential policy directive establishing combating corruption as a core national security interest and democratic responsibility. Here is what that directive should include to kick-start America's fight against global kleptocracy:

1. Announce a high-level interagency kleptocracy task-force, coordinated by the National Security Council, that is focused on protecting US institutions and targeting corruption overseas.
2. Direct the Treasury Department to begin implementing a US corporate beneficial ownership register mandated under the Anti-Money Laundering Act of 2020.
3. Instruct the Treasury Department to begin the process of expanding the anti-money laundering regime beyond traditional banks by including other high-risk sectors and professions in new or re-issued Bank Secrecy Act regulations. These should include: lawyers, accountants, fund managers, real estate professionals, public relations and public affairs firms, luxury goods dealers, celebrity agents, and educational and cultural institutions.
4. Direct the Treasury Department to begin implementing the cross-border electronic transmittals of funds database authorized by Congress under the Intelligence Reform and Terrorism Prevention Act of 2004.
5. Direct the Treasury Department to expand the Geographic Targeting Order pilot scheme on real estate transactions nationwide and begin publicizing key trends.
6. Support money laundering whistleblowers by ordering the Treasury and Justice Departments to begin implementing the new Bank Secrecy Act rewards scheme mandated by the Anti-Money Laundering Act.
7. Ensure various reports mandated by the Anti-Money Laundering Act on Chinese and Russian money laundering, trade-based money laundering, and authoritarian exploitation of the US financial system are completed diligently.
8. Designate a Special Envoy for countering kleptocracy.
9. End the practice of nominating major campaign donors to important ambassadorial appointments. These should instead be filled by senior State Department officials or other highly qualified country experts
10. Rejoin the Extractives Industries Transparency Initiative.
11. Instruct the Justice Department to prioritize enforcement of the Rodchenkov Anti-Doping Act, empowering US law enforcement to tackle pervasive authoritarian corruption in global sports.
12. Direct the Treasury Department and State Department to significantly expand the targeting of individual kleptocrats and their professional enablers using the Global Magnitsky Act, Section 7031(c), and other sanctions. Encourage democratic partners to introduce their own Global

Magnitsky Act regimes, then work together on aligning designations.

13. Direct the Treasury Department to expand the use of Special Measures under Section 311 of the USA PATRIOT Act to target jurisdictions and institutions that facilitate global money laundering.

The First Year

The measures listed above would, at a stroke, put the US government on a war footing against transnational corruption and illicit finance. But other reforms necessary to consolidate and advance these efforts can be set in motion within a relatively short period of time:

14. Adopt a comprehensive approach to countering “threat finance” across the US government, removing outdated incentives for intelligence and law enforcement agencies to focus on terrorism and drug trafficking to the exclusion of other dangerous threats. Start by relaunching the Under Secretary and Office for Terrorism and Financial Intelligence at the Treasury Department as the Under Secretary and Office for Threat Finance.
15. Direct the Treasury Department, State Department and Intelligence Community to produce an annual Global Threat Finance Report assessing high-risk jurisdictions and themes, modelled on (or incorporating) the International Narcotics Control Strategy Report.
16. Strengthen formal channels of communication and cooperation on anti-money laundering between government agencies and the private sector. This should include reinvigorating FinCEN Exchange and the Bank Secrecy Act Advisory Group, as well as collaboration to improve the quality of Bank Secrecy Act reports.
17. Restore the office of Coordinator for Sanctions Policy at the State Department.
18. Instruct the State Department to deploy a network of anti-corruption specialists at US embassies worldwide, who can liaise with regional deputy assistant secretaries to create country-specific anti-corruption plans (see Countering Russian and Other Overseas Kleptocracy Act).
19. Ensure the SEC issues a strong, viable rule implementing Section 1504 of the Dodd-Frank Act, which requires extractives companies to disclose payments to governments – or if that proves impossible, ask Congress to re-legislate it.
20. Delist foreign companies that refuse to meet US auditing requirements as authorized by the Holding Foreign Companies Accountable Act of 2020.
21. Direct the Justice Department and other agencies to increase efforts to criminally prosecute senior employees of US banks and other businesses found to have engaged in corrupt acts, rather than relying on non- and deferred-prosecution agreements with their employers.
22. Introduce a “three strikes” rule regarding non- and deferred-prosecution agreements involving financial crime, to deter US firms that have become repeat offenders in enabling corruption.
23. Issue a time-limited ban on former law enforcement officers providing lobbying and legal services to private sector firms involved in corruption cases.
24. Pressure other democratic countries to increase their investigation and prosecution of the professional enablers of transnational corruption.
25. Clarify and streamline the process by which the US holds and returns funds confiscated from corrupt foreign officials. This could initially include publicly disclosing those funds

in a more accessible format (see Justice for Victims of Kleptocracy Act).

26. Promote the adoption of foreign investment screening mechanisms based on the Committee on Foreign Investment in the United States among vulnerable democracies and security partners worldwide.
27. Provide stronger support for civil society and independent media within kleptocratic societies, for example through grants for researchers and journalists and by contributing to the new Global Media Defense Fund.
28. Work with Congress to further study trade-based money laundering and develop a comprehensive plan.
29. Strengthen inspections and oversight of US free trade zones.
30. Continue to research developments in cryptocurrency and other financial technology while aggressively targeting rogue exchanges.

The First Term

Some measures are less urgent or will require a longer-term approach to reform. Here is what the Executive Branch should aim to have underway by the end of President-elect Biden's first term in office.

31. Commit to working with the international community to end offshore secrecy, not only by pressuring tax havens to meet anti-money laundering standards but also providing incentives for them to adopt more transparent financial systems.
32. Join the OECD Common Reporting Standard, but insist on the introduction of penalties for non-compliance and provision for countries that administer citizenship-based rather than residency-based taxation (if Congress ratifies the Convention on Mutual Administrative Assistance in Tax Matters).
33. Maintain efforts to counter disingenuous authoritarian anti-corruption campaigns such as China's Operation Fox Hunt, and support other countries to do the same.
34. Instruct the Justice Department to conduct a study on how authoritarian regimes and their proxies abuse the US court system—especially the discovery process—to uncover otherwise confidential or sensitive information about political opponents, dissidents and critics, and introduce preventative measures.
35. Review whether the bank examination process remains appropriate and effective for anti-money laundering requirements, as mandated by the Anti-Money Laundering Act.
36. Work with international partners and the private sector to provide trusted, transparent alternatives to Chinese investment for infrastructure financing and other major projects through the US Development Finance Corporation, Blue Dot Network, and Economic Prosperity Network. This should be accompanied by public relations efforts to highlight the benefits to recipient populations of foreign investment that is accompanied by stringent anti-corruption standards.
37. Be prepared to better support countries undergoing historic democratic transitions with a “surge” of technical anti-corruption assistance designed to sustain reforms and build institutional resilience.
38. Prevent the loss of life-saving resources during the COVID-19 pandemic by dedicating a greater proportion of foreign healthcare assistance to improving transparency in procurement and delivery.
39. Ensure future US foreign aid and security assistance operations are accompanied by comprehensive anti-corruption plans from the outset, and prohibit disbursement

of funds to contractors owned by foreign officials and/or their families except where it would harm broader US objectives to do so.

40. Lead a review of important privately-controlled nodes of the global financial system (e.g. the SWIFT messaging service) to ensure appropriate oversight is in place.
41. Emphasize corruption in the National Intelligence Priorities Framework and direct the US Intelligence Community to map, monitor and report on transnational corruption networks. Use this information to vet US investments and development assistance overseas.
42. Promote anti-kleptocracy measures through existing multilateral platforms such as the UN, G7, G20, World Bank, IMF, and FATF, and play a more active role in leading the Open Government Partnership.
43. Work to ensure counter-kleptocracy measures become a key component of NATO readiness requirements.
44. Launch a Global Kleptocracy Initiative with democratic allies and partners. This would initially endorse a statement of principles, help coordinate law enforcement efforts, and share best practices. In time, it would provide a platform for enforcing new global standards of financial transparency and government accountability, while incorporating existing multilateral anti-kleptocracy initiatives as well as acting to fill gaps in global anti-corruption governance.

Actions for Congress

Unfinished Business

The 116th Congress has seen unprecedented progress on advancing bipartisan legislation to protect the US financial system and target foreign corruption, but it is unlikely that all of these measures will make it into law before the end of 2020.

However, the 117th Congress can pick these measures up straightaway if it chooses:

1. Require the Treasury Department, again under existing authorities or with new legislation, to expand Bank Secrecy Act/PATRIOT Act anti-money laundering requirements beyond traditional financial institutions to include other sectors and professions at risk of money laundering (see Rejecting Enemy Payments through Enforcement and Leadership Act, not yet introduced).
2. Strengthen prohibitions against foreign funding of US political campaigns by introducing broader definition of in-kind contributions; increased disclosure surrounding the use of shell companies, nonprofits and small donors; transparency in online ad purchasing and media outlet funding; and mandatory reporting of offers of assistance from foreign powers (see DISCLOSE Act, SHIELD Act, Honest Ads Act, and PAID AD Act).
3. Criminalize solicitation of bribery by foreign officials (see Foreign Extortion Prevention Act of 2019).
4. Ease the rule-making process for Special Measures under Section 311 of the USA PATRIOT Act and enable it to be applied to non-financial institutions involved in money laundering (see Rejecting Enemy Payments through Enforcement and Leadership Act, not yet introduced).
5. Authorize the Secretary of State to retroactively make public all US visa rejections made on the basis of the applicants' involvement in serious corruption (see Kleptocrat Exposure Act of 2019).
6. Require the Executive Branch to demand greater transparency and accountability within Interpol, to prevent authoritarian misuse of the "Red Notice" system and other

abuses (see Transnational Repression and Accountability (TRAP) Act of 2019).

Top Priorities

The measures above will help transform America's fight against foreign corruption and illicit finance, but Congress will quickly need to go further to empower US law enforcement and address remaining urgent vulnerabilities:

7. Significantly increase resources for US law enforcement agencies tasked with fighting illicit finance, including FinCEN, the FBI's International Corruption Squads, and the IRS.
8. Require the Treasury Department, under existing authorities or with new legislation, to implement a cross-border electronic remittance of funds database.
9. Mandate the disclosure of the beneficial ownership of companies used to purchase US real estate to the Treasury Department, effectively making Geographic Targeting Orders nationwide and permanent.
10. Explore the possibility of a US illicit enrichment law, perhaps modelled after the UK's Unexplained Wealth Orders.
11. Protect foreign whistleblowers by creating a fast-tracked visa scheme.
12. Introduce a new State Sponsors of Transnational Organized Crime sanctions program to provide options for restraining regimes that deliberately and systematically engage in egregious acts of cross-border crime and corruption.
13. Replace the Foreign Agents Registration Act and Lobbying Disclosure Act with a single regime that removes ambiguities,

gathers consistent and high-quality information, and removes the "foreign agent" pejorative.

14. Impose a lifetime ban on former Executive Branch senior officials and members of Congress lobbying on behalf of foreign governments and their proxies.
15. Launch a general review of foreign lobbying, both to clarify lobbying definitions and examine methods of excluding authoritarian influence from the US political system.
16. Reform the EB-5 investor visa scheme to address fraud and money laundering, or abolish it altogether.
17. Ratify the OECD Convention on Mutual Administrative Assistance in Tax Matters so that the US can join the Common Reporting Standard.
18. Mandate the creation of a register of the beneficial ownership of US trusts.
19. Introduce a federal "anti-SLAPP" law to deter kleptocrats from launching vexatious lawsuits against investigative journalists.

Finishing the Fight

If the measures above are enacted, the United States will be in a strong position to defend its own financial borders while reasserting global leadership against authoritarian kleptocracy. The following measures will further enhance its ability to do so:

20. Authorize the creation of a Global Politically Exposed Persons Register and require financial institutions to screen US officials for money laundering risks as they do to foreign officials.
21. Curtail authoritarian influence in US public life by making it legally impossible - or at least reputationally disastrous - for lobbyists, PR firms, media outlets and social media firms,

and educational and cultural institutions to accept tainted authoritarian funding.

- 22.** Work with the administration to further study and if necessary act against trade-based money laundering, free trade zones, the illicit gold trade, and other overlooked areas.
- 23.** Review whether it would be beneficial to share confidential information pertaining to CFIUS decisions with trusted security partners including the Five Eyes countries.
- 24.** Increase or at least maintain funding for the National Endowment for Democracy and other groups providing

support for civil society and independent media within authoritarian societies.

- 25.** Implement commitments made under the Open Government Partnership, which will allow the United States to play a stronger role within the organization and integrate in multilateral and bilateral relations.
- 26.** Launch an Inter-Parliamentary Alliance Against Kleptocracy, modelled on the highly influential China group but with a broader scope.

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