

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

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August 24, 2016

The Honorable Chuck Grassley
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
437 Russell Senate Office Building
Washington, DC 20510

Dear Senators Grassley and Leahy:

On behalf of the Federal Law Enforcement Officers Association (FLEOA) – the nation's largest professional, non-profit association representing 26,000 federal law enforcement officers from 65 agencies – I am writing to you regarding the Incorporation Transparency and Law Enforcement Assistance Act, S.B. 2489.

Since our last letter of support on this issue there has been relevant progress made in furtherance of this bill:

The release of the Panama Papers in April 2016 was the single largest data leak of its kind in history. The data unveiled the massive extent of the offshore financial world. It displayed just how widespread the use of anonymous shell companies has been across a wide range of activities – from tax evasion to fraud, and drug trafficking to sanctions evasion. Governments around the world have responded by removing politicians, making law enforcement inquiries regarding the subjects of the papers and some have responded with major reform measures dealing with shell companies and financial transparency. It is time for the U.S. Congress to act.

In May 2016, the *Financial Crimes Enforcement Network* (FinCEN) published the final rule that formalizes new and existing customer due diligence (CDD) requirements for banks (including branches and agencies of foreign banks in the United States) to broker-dealers in securities, mutual funds, futures commission merchants and introduce brokers in commodities (collectively Covered Financial Institutions). By providing a clear CDD framework for Covered Financial Institutions, FinCEN intends to promote a more level playing field across and within financial sectors and minimize some of the disparities in CDD practices among financial institutions. The final rule describes

four core elements of CDD that are required for the anti-money laundering (AML) programs of all Covered Financial Institutions:

1. identifying and verifying the identity of customers
2. identifying and verifying the identity of beneficial owners of legal entity customers, subject to certain exceptions
3. understanding the nature and purpose of customer relationships to develop a customer risk profile
4. ongoing monitoring for reporting suspicious transactions and, on a risk basis, maintaining and updating customer information

In July 2016, the Department of Justice filed civil asset forfeiture complaints seeking the recovery of over one billion dollars in funds allegedly misappropriated from a Malaysian sovereign wealth fund, known as 1 MDB. The action is the single largest ever filed by the DOJ's Kleptocracy Asset Recovery Initiative. It is a textbook case of fraud and corruption involving a middleman, shell companies, lawyers and law firm escrow accounts. As the case unfolds, it's quite likely we'll see yet another illustration of the ease with which illicit actors are able to gain access to the American financial system to launder their ill-gotten gains.

The Senate bill now has two Democratic sponsors, Senators Whitehouse and Feinstein, and one Republican supporter, Senator Grassley. The House bill has over 16 sponsors, including Representatives King and Maloney – who are the original sponsors – as well as new sponsors. Many new sponsors are Democrats, but a few Republicans have also signed on, including Representative LoBiondo.

Finally, the Clearing House Association came out in support of the incorporation transparency bill in a letter to the Hill. While financial institutions are sometimes reluctant to support similar measures, and have sometimes been problematic actors in cases regarding money laundering that law enforcement has investigated, their support represents a big shift in political dynamics that could be advantageous in generating momentum for eventual passage.

Once again, it is now time for the U.S. Congress to act.

FLEOA appreciates your time and effort regarding the Incorporation Transparency and Law Enforcement Assistance Act, S.B. 2489.

Respectfully,

Dominick L. Stokes

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FLEOA Vice President for Legislative Affairs