



## **ENABLERS ACT**

*Confronting the “Enablers” of  
International Corruption*

*Rep Malinowski & Rep Salazar*

### **SECTION BY SECTION**

Section 1. Short title.

#### **Section 2. Financial Institution Definition adjustments – expanding anti money-laundering checks**

- a. In general. Enables Treasury to create basic due diligence rules on source of funds for investment advisors, art dealers, attorneys involved in financial activity, company service providers (those who create companies for a fee), accountants, PR firms, and third-party payment providers. A basic due diligence program could be as simple a requirement as asking if suspicious funds are the proceeds of a crime.
- b. Rulemaking.
  - Eliminates “temporary” exemption in place since 2002 that says real estate professionals and sellers of luxury cars, ships, and aircraft don’t have to have anti-money laundering programs despite a post-9/11 law (the PATRIOT ACT) requiring them to do so.
  - Requires Treasury to create anti-money laundering rules around these industries.
  - Includes an AML exemption for attorneys who use a paid service provider to set up companies (and therefore avoid becoming financial institutions)
- c. Effective date. Treasury has until December 31, 2023 to get the job done. All enablers subject to this amendment must have programs by June 30, 2024 whether or not Treasury has promulgated the rule.

#### **Section 3. Treasury Task Force and Strategy on Enablers**

Mandates the creation of a national security gatekeepers taskforce to implement these regulations and amends CAATSA to include a “gatekeepers” strategy.

#### **Section 4. Reporting by Title Insurance Companies.**

Makes Geographic Targeting Orders—which require title insurers in a handful of large American cities to collect beneficial ownership information (actual ownership) for residential real estate purchase in all cash—nationwide and apply also to commercial real estate. Treasury has 90 days to enact (very doable as the program is already in place, just needs expansion).

#### **Section 5. Authorization of Appropriations.**

Authorizes amounts required to carry out curbing the enablers. No amount specified.



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### **FACT SHEET**

Modern dictatorship relies on access to the West. Lawyers, lobbyists, accountants, real estate professionals, consultants, and other enablers help kleptocrats and human rights abusers launder their money and reputations—and exert undue influence in democracies—in exchange for dirty money. Without the energetic assistance of these enablers, or gatekeepers, these corrupt individuals could not move their money to western democracies and would be forced to live under the repressive systems they have created.

In direct response, the ENABLERS Act provides the authority to Treasury to require the enabling industry to establish anti-money laundering programs. Banks are already required to complete due diligence on their clients under the Customer Due Diligence Rule – other professionals handling money must do the same to protect the integrity of the U.S. economy.

Multiple investigations, including most recently the Pandora Papers, have revealed how [“the United States, in particular, has become an increasingly attractive destination for hidden wealth.”](#) These investigations on the hidden wealth of foreign dictators, their associates, and other corrupt officials include documents from 206 U.S. trusts in 15 states and Washington, DC, and 22 US trustee companies. These trusts are created by company and trust service providers. Lawyers have also been central to creating the offshore system, including some of the largest firms in the United States. [300 politicians and public officials from more than 90 countries and territories are included in the Pandora Papers.](#)

- [Chinese Communist Party politician Feng Qiya](#) used an offshore company and enablers to trade U.S. stocks with \$2 million worth of illicit funds.
- [King Abdullah II](#) used offshore companies, financial advisors, law firms, and real estate professionals to obtain \$106 million worth of real estate in London, Washington, and Malibu.
- Members of Putin’s inner circle and individuals listed on the Navalny 35 list of human rights abusers and kleptocrats, [Konstantin Ernst](#) and [Gennady Timchenko](#), used offshore companies and enablers to engage in a \$230 million sweetheart real estate deal, and received hundreds of millions of dollars in suspicious “loans,” respectively.
- Azerbaijan’s kleptocratic ruling family, [the Aliyevs](#), used offshore companies and enablers to obtain \$700 million worth of real estate in London.

The ENABLERS Act is a commonsense response to this national security threat of money laundering, which [“through corruption of officials and legal systems, undermines free enterprise by crowding out the private sector, and threatens the financial stability of countries and the international free flow of capital.”](#) Basic money laundering checks ensure that U.S. professionals ask where suspicious funds come from and report concerns to Treasury, which will prevent dirty from entering the United States, and prevent U.S. professionals from providing their services to kleptocrats, human rights abusers, and adversaries of the United States.

*For more on Western “enablers,” please see the recent Helsinki Commission event on the topic [here](#).*



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### **FREQUENTLY ASKED QUESTIONS**

#### **Sorry—this sounds really complicated. What does ENABLERS really do?**

The bill would require a new set of middlemen to do basic due diligence on money flowing through their businesses—to try to determine if it contains ill-gotten gains or stolen funds. Right now, there are numerous “due diligence” requirements in place. Many of which were set up in the wake of 9/11 to eliminate the financial flows fueling international terrorism. For example, if you wire a lot of money from a bank in the Caymans, American banks will file a suspicious activity report. All this does is flag the transaction so everyone can make sure it’s going from one legitimate account to another. Another example is if you walk into a local bank with a suitcase of a million dollars to open an account, they’re obligated by law to ask you who you are, where the money came from, what your address is...etc.

#### **So, if these due diligence measures are already in place, then what’s the issue?**

The problem is that too many criminals, human rights abusers, and corrupt foreign officials found those “due diligence” requirements were making it harder to smuggle money into the United States. These individuals have now found *new* “ENABLERS”: real estate transactions, private equity investments, perpetual trusts, and/or legal maneuvers that completely sidestep the prior requirements put in place to keep our country secure and free of corruption. With the ENABLERS Act, we’re closing the loopholes that remain open to terrorists, foreign dictators, militias, and cybercriminals.

#### **Isn’t this going to cause too much of a headache for American businesses—small-time real estate agents, law offices, or financial advisors?**

Bottom line: NO. The vast majority of American businesses potentially affected are law-abiding contributors to our economy, and they know who their customers are and how they make money. Due diligence requirements are like when a traffic cop or customs officer asks “Hey--Where are you headed? What’re you doing this weekend?” to get a sense of whether there’s something suspicious going on. They are generally simple forms that ask simple questions: Where did this money come from? What’s the intended use?

It doesn’t require the business to become their own investigator and uncover illegal money laundering—it only requires them to ask a few basic questions of their customers. If the customer looks queasy about filling out their address or occupation? And potentially takes their business elsewhere? Well, that’s probably a sign the due diligence is working.

## **...FAQ CONTINUED**

### **If it's so simple, what makes you think expanded money laundering due diligence is going to make some big difference?**

Crooks go the easiest route. Right now, the easiest and safest way to hide and launder money is in Western democracies. What do you think would happen if a dictator hid his money in a different dictatorship? That's right. It would be at risk of seizure by a different strongman. That's why malign actors come with their ill-gotten gains to Western democracies with more effective legal systems. But as we've tightened the screws, we've made it harder for them to use some of the previously easy money laundering tactics. When cash transfer companies were targeted for due diligence after 9/11, many crooks and terrorists stopped using them. When cash transactions at banks started getting second looks, many corrupt officials stopped going that route. But they've found new avenues to move their dangerous cash—it's time for us to adapt as well with updated legislation and regulations.

### **But is money-laundering *REALLY* that serious of a threat?**

Yes. Money laundering is *the* tool of choice for dictators, criminals, and terrorists. Money laundering is how Putin pays for a militia of mercenaries to stymie U.S. policy in Libya. Money laundering is how ransomware attackers on U.S. oil pipelines get paid. Money laundering is how terrorists move money between fronts. Money laundering is how Chinese state-owned enterprises bribe corrupt officials in Africa and beat out American competitors. Money laundering is how Russia foments social division and interferes in elections across Eastern Europe. And perhaps most importantly, money laundering reinforces the control of authoritarians, allowing them to easily move dirty money, pay off cronies and allies, and extend their rule.

In our own communities, money laundering leads to increases in the cost of living, job loss and urban decay, petty and organized crime, and human trafficking. America is the destination of choice for dirty money because our laws are out of date, threatening international and national security, as well as the security of the everyday American.

### **What does this have to do with the Pandora Papers?**

Everything. Take just one example from the Pandora Papers: King Abdullah II of Jordan and his purchase of 14 homes in the United States and the United Kingdom totaling over \$106 Million. While the letter of U.S. law may have been followed, the purchases, and their lack of transparency, raise serious questions about dirty money in American real estate transactions. Namely, that the lack of due diligence requirements in U.S. real estate actually *help* foreign rulers hide questionably-acquired wealth from the eyes of their own poor and oppressed citizens—making the United States complicit in reinforcing the corruption and ineffectiveness of authoritarian regimes around the world. As the United States lays out firm foreign policy objectives linked to democracy and human rights, our out-of-date money laundering laws directly undermine these objectives by helping corrupt authoritarians to keep regime cronies and themselves happy, and their countries' people and American citizens poor.