

## Levin, Grassley Introduce Bill to Combat U.S. Corporations with Hidden Owners

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WASHINGTON – Sen. Carl Levin, D-Mich., chairman of the Permanent Subcommittee on Investigations, and Sen. Chuck Grassley, R-Iowa, ranking member of the Senate Judiciary Committee, this week introduced the Incorporation Transparency and Law Enforcement Assistance Act to combat acts of terrorism, money laundering, tax evasion, and other wrongdoing facilitated by U.S. corporations with hidden owners. The bill would end the practice of the 50 States forming corporations for unidentified persons, and instead require the States to obtain the identities of the persons behind the corporations.

***Read a summary of the bill here (<http://levin.senate.gov/newsroom/press/release/summary-of-the-incorporation-transparency-and-law-enforcement-assistance-act>). Read Sen. Levin's floor statement on the bill introduction here (<http://levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-the-introduction-of-the-incorporation-transparency-and-law-enforcement-assistance-act>). Access the bill text here (<http://levin.senate.gov/download/incorporation-transparency-and-law-enforcement-assistance-act>).***

“Today, it takes more information to obtain a driver’s license or open a U.S. bank account than it does to form a U.S. corporation,” said Levin. “Our States don’t require anyone to name the owners of the corporations being formed under their laws, practically inviting people to misuse our corporations. A single State can’t solve the problem on its own, because if one State starts requiring names, people seeking to use corporations for nefarious purposes can switch to another State with weaker requirements. That’s why federal legislation is needed to level the playing field among the 50 States and get them to obtain corporate ownership information so it is available to law enforcement investigating corporate wrongdoing. It is past time to stop hamstringing our law enforcement by forcing them to chase U.S. corporations with hidden owners.”

“Prosecutors of financial crimes follow the money,” Grassley said. “It’s hard for them to do that when the owners of shell corporations are able to hide their identities so easily. Setting consequences for submitting false ownership information would help law enforcement by imposing a hardship on the Ponzi schemers, money launderers and tax cheats who use shell corporations to conceal their fraud.”

States form almost two million corporations and limited liability companies (LLCs) within the United States each year without asking for the identity of the owners. The Levin-Grassley bill would require the States to add a single question to their existing incorporation forms requesting the names of the natural persons -- the beneficial owners -- behind the corporations being formed. States would not be required to verify the information, but penalties would apply to persons who submitted false information. Law enforcement would be given access to the information upon presentation of a subpoena or summons. Corporations bidding on federal contracts would have to provide the same beneficial ownership information to the federal government to ensure the United States knows with whom it is doing business. Regulated corporations whose ownership is already known, including publicly traded corporations, banks, and securities firms, would be exempt from the disclosure requirement.

The bill is supported by a number of law enforcement groups including the Federal Law Enforcement Officers Association, Fraternal Order of Police, Society of Former Special Agents of the Federal Bureau of Investigation,

National Association of Assistant United States Attorneys, and National Narcotic Officers' Associations Coalition. In addition, it is endorsed by small business and public interest groups, including the Main Street Alliance, Sustainable Business Network of Washington, Business for Shared Prosperity, Global Financial Integrity, Global Witness, Public Interest Research Group, Project on Government Oversight, Jubilee USA, Citizens for Tax Justice, Tax Justice Network USA, and the FACT Coalition.

This is the third time the bill has been introduced. When the bill was introduced the first time in the 110th Congress, and he was a member of the U.S. Senate, President Obama was an original cosponsor.

Examples of how U.S. corporations have been misused include the following.

- Viktor Bout, an arms dealer currently in jail facing charges for conspiracy to kill U.S. nationals, used shell companies around the world in his work, including a dozen formed in Texas, Delaware, and Florida.
- In 2011, Victor Kaganov, a former Russian military officer who ran an illegal money transmitter business from his home in Oregon, pled guilty to using Oregon shell companies to wire more than \$150 million to other countries on behalf of Russian clients.
- In June 2011, over two thousand U.S. shell corporations formed for unidentified persons by Wyoming Corporate Services shared the same address at a small house in Cheyenne, Wyoming, including a corporation controlled by a former Ukrainian Prime Minister Pavlo Lazarenko, convicted of money laundering and extortion; a corporation indicted for helping online-poker operators evade a U.S. ban on Internet gambling; and two corporations barred from U.S. federal contracting for selling counterfeit truck parts to the Pentagon. The Wyoming Corporate Services website stated: "A corporation is a legal person created by state statute that can be used as a fall guy, a servant, a good friend or a decoy. A person you control ... yet cannot be held accountable for its actions. Imagine the possibilities!"
- In 2010, Florida attorney Scott Rothstein pled guilty to fraud and money laundering in connection with a \$1.2 billion Ponzi investment scheme, in which he used 85 U.S. limited liability companies to conceal his participation or ownership stake in various real estate and business ventures.
- In 2005, the Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security (DHS) closed an investigation into 800 U.S. shell corporations in Utah and most of the other 50 states, all of which were associated with a group of companies in Panama and raised concerns about tax fraud and other wrongdoing, due to ICE's inability to identify any natural person who owned any of the shell corporations.
- A 2005 analysis by the Treasury Department's Financial Crimes Enforcement Network (FinCEN) of suspicious activity reports indicated that as much as \$18 billion in suspicious transactions occurred through international wire transfers utilizing U.S. shell companies.

In 2008, then DHS Secretary Michael Chertoff wrote: "In countless investigations, where the criminal targets utilize shell corporations, the lack of law enforcement's ability to gain access to true beneficial ownership information slows, confuses or impedes the efforts by investigators to follow criminal proceeds." In a June 2009 hearing, the Manhattan District Attorney's office testified: "We see these shell companies being used by criminal organizations, and the record is replete with examples of their use for money laundering, for their use in tax evasion, and for their use in securities fraud." At a November 2009 hearing, the Justice Department testified about criminals caught misusing U.S. shell corporations, noting that "each of these examples involves the relatively rare instance in which law enforcement was able to identify the perpetrator misusing U.S. shell

companies. Far too often, we are unable to do so.”

The bill would not only help law enforcement combat wrongdoing, it would bring the United States into compliance with international standards issued by the Financial Action Task Force on Money Laundering requiring the disclosure of corporate beneficial ownership information and make U.S. domestic practices consistent with its foreign policy. “For years, the United States has been fighting offshore corporate secrecy laws, pointing out corporations were designed, not to hide ownership, but to protect owners from personal liability for corporate acts,” said Levin. “If we want to stop inappropriate corporate secrecy offshore, we need to stop it here at home as well.”