

Crapo Statement at Beneficial Ownership Hearing: Outside Perspectives

June 20, 2019

WASHINGTON – U.S. Senator Mike Crapo (R-Idaho), Chairman of the U.S. Senate Committee on Banking, Housing and Urban Affairs, delivered the following remarks at a hearing entitled “Outside Perspectives on the Collection of Beneficial Ownership Information.”

The text of Chairman Crapo’s remarks, as prepared, is below.

“Today, the Committee will continue its discussion of how better collection of beneficial ownership information can deter such problems as money laundering, terrorist financing and sanctions evasion through anonymous shell companies.

“I will note at the outset, again, that while the vast majority of anonymous corporations can serve legitimate purposes, this type of incorporation can also be abused to aid and abet all manner of financial crime.

“Last month, the Committee heard from witnesses from law enforcement and a banking regulator about what steps the U.S. should take to modernize its beneficial ownership regime and strengthen its enforcement.

“Today, we have invited a panel to give us some perspective from the business world on this difficult subject.

“With that, I welcome Mr. Greg Baer, President, of the Bank Policy Institute, whose members confront the ownership issue at account openings; Ms. Karen Harned, of the National Federation of Independent Business, which speaks to the concerns of the hundreds of thousands of small businesses it comprises; and, Mr. Gary Kalman, of FACT, or the Financial Accountability and Corporate Transparency Coalition, an alliance of organizations that is working toward ending the use of anonymous shell companies as vehicles for illicit activity, and increasing transparency for more informed tax policies.

“During last month’s hearing, our witnesses assessed the need to eliminate anonymous corporations by means of collecting beneficial ownership information to protect the U.S. financial system, its national security, and citizens from harm.

“The Committee learned that according to estimates from the U.N. Office on Drugs and Crime, there is more illicit money flowing through the global and U.S. financial systems than ever before.

“The U.N. estimate found that global illicit proceeds now total some \$2 trillion and the proceeds of crime in the United States are over \$300 billion.

“All of that illicit money has several things in common: somebody has to make it, hide it, move it, clean it and use it.

“Despite efforts of U.S. law enforcement and the heavy U.S. regulatory framework of the Anti-Money Laundering/Bank Secrecy Act (AML/BSA) regime, which includes a mandate to collect beneficial ownership upon opening of a bank account, criminal elements in this country and from other countries can and do exploit weaknesses in the current U.S. corporate formation system to hide identities and illicit assets behind anonymous corporations.

“In our last hearing, FinCEN Director Blanco testified that a necessary ‘second critical step in closing this national security gap is collecting beneficial ownership information at the corporate formation stage.’

“In agreement with Blanco, FBI Financial Crimes Chief D’Antuono cited the need for a ‘central repository,’ to allow law enforcement to store and share the information.

“OCC Senior Deputy Comptroller Gardineer, also emphasized the need for a centralized database, so that businesses could provide, update and verify beneficial ownership information.

“Importantly, she also recommended that “foreign entities be required to report ownership information either at the time of state registration or upon establishing an account relationship with a U.S. financial institution.”

“Our hearing today comes at a time when bipartisan support for beneficial ownership legislation continues to build.

“Last week, the House Financial Services Committee marked up H.R. 2513, the ‘Corporate Transparency Act of 2019,’ which was reported out of committee on a 43-16 vote.

“And, on the very same day, a bipartisan group of my Senate colleagues here on the Banking Committee circulated draft legislation, presently called ‘The Illicit Cash Act,’ which provides a number of important measures to modernize the AML/BSA regime and to address the collection of beneficial ownership information.

“I especially want to acknowledge the hard work Senators Cotton, Warner, Rounds and Jones, and their staffs, put in over the last year on this effort, which the Committee, as a whole, shall take close note of, moving forward.

“Each of these legislative vehicles share some of the broad themes, brought out in the Committee’s first hearing, such as a requirement for the collection of beneficial information at the time of a company’s formation, periodic updating, storage of that information in FinCEN’s secure database, and limiting access to that database to federal law enforcement and its qualified state partners.

“We turn now, to our panel, for their perspectives on the important issues underlying any further collection of beneficial ownership information, and how that might impact banking and business operations, including concerns that arise with regard to privacy and liability issues.

“Given the facts presented to the Committee thus far, there are strong law enforcement and national security reasons supporting additional collection of beneficial ownership information.

“Hopefully, our witnesses will provide some insight on how to collect this information at minimal cost and burden to businesses.

“Now is the time to critically examine how the AML/BSA regime can be modernized, and, in particular, how businesses can work effectively with government to efficiently provide beneficial ownership information that will in turn provide a high degree of usefulness to combat crime and terrorism.”

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