



December 19th, 2022

URGENT LEGISLATIVE MATTER
ANTI-MONEY LAUNDERING WHISTLEBLOWER IMPROVEMENT ACT

Congresswoman Rosa DeLauro
Chair, House Appropriations Committee
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair DeLauro:

We are writing in regard to the Anti-Money Laundering (AML) Whistleblower Improvement Act, [S.3166](#) and [H.R.7195](#), currently pending in the House of Representatives.

A recent audit report issued by the respected and influential Organization of Economic Cooperation and Development's (OECD) provides additional insight as to why the National Whistleblower Center and our supporters are so passionate about having the AML whistleblower bill passed this Congressional session

Two years ago the NWC testified before the OECD as part of its Phase IV audit of the U.S. anti-bribery program. As part of that audit the OECD made nine recommendations to improve the U.S. response to international corruption. The OECD's just released follow-up report found that the United States fully or partially implemented eight of the nine recommendations. ***The only recommendation not implemented concerned money laundering.***

In its Phase IV audit and the "Two Year" follow-up report the praised the Dodd-Frank approach to incentivizing whistleblowers and detecting corruption, but expressed concern that AML procedures had not been approved and the scope of Dodd-Frank whistleblower laws were not expanded. The OECD found:

"Recommendation 1b – Not implemented." This is the recommendation related to AML.

"Recommendation 1c – Partially implemented." This audit finding explained that the current Dodd-Frank whistleblower law provided a "a good practice the robust framework of protections and incentives for whistleblowers who report FCPA violations by issuers to the SEC," but the OECD wanted the United States to expand that program, to also include violations that were covered by the Justice Department. H.R.7195 will help close this loophole, as disclosures to the Justice Department will be covered.

See Implementing the OECD Anti-Bribery Convention: Phase-4 Two Year Follow-Up Report, United States, p. 6, online at <https://www.oecd.org/daf/anti-bribery/united-states-phase-4-follow-up-report.pdf>.

The OECD's findings concerning Recommendation 1c is clearly relevant to H.R. 7195, and stated as follows:

In Phase 4, the WGB [The OECD Working Group on Bribery] identified as a good practice the robust framework of protections and incentives for whistleblowers who report FCPA violations by issuers to the SEC. **At the same time, it observed that whistleblowers either who report only to the DOJ or whose reports do not concern FCPA violations by issuers would have only limited protections if any.** It thus recommended that the United States (1) consider how it can enhance protections for whistleblowers who report violations by nonissuers and (2) enhance guidance about the variations in protections depending on the agency to which a whistleblower makes a report.

Id.(emphasis added).

The pending legislation directly addresses the OECD's concern. Although we do not agree with every recommendation made by the OECD, given that in the area of combating bribery and international corruption it is the most respected, prestigious and well-versed international body with expertise on effectively fighting these crimes, we believe that Congress should give these audit findings significant weight.

The OECD understood that the current Dodd-Frank law, although highly effective, did not cover reports to agencies outside the SEC and had loopholes in the scope of coverage. H.R. 7195 closes some of the most troubling loopholes in current law. It would permit disclosures to be directly made to the Department of Treasury and Justice, both of which are not covered under Dodd-Frank. It also covers "nonissuers," which means that individual Russian oligarchs who are currently outside of the Dodd-Frank provisions would be covered, along with non-publicly traded companies and individuals who engage in sanctions-busting. In the long term correcting these loopholes will go a long way to addressing the problems caused by corruption, but in the short-term they are perfectly tailored to address the pressing needs caused by Russian corruption and its aggression in Ukraine.

In addition to the OECD findings, our organization is also very committed to H.R. 7195 because we have direct knowledge of whistleblowers who reside outside the United States and have important information directly related to money laundering and Russian oligarchs under U.S. sanctions. We directly understand why these whistleblowers desperately need H.R. 7195 to pass, and how the law can and will be used to incentivize others with critically important information to step forward. Also, the below counsel (Kohn) currently represents the banker who worked in Estonia and who first identified the Danske money laundering scheme. He was able to confirm that this massive money laundering scheme included both relatives of Russian President Putin and the Russian FSB (i.e. the secret police).

Although money laundering may appear to be an economic crime, President Biden’s task force on corruption accurately explained its worldwide impact on human rights, poverty, and democratic institutions:

Corruption is a cancer within the body of societies—a disease that eats at public trust and the ability of governments to deliver for their citizens. The deleterious effects of corruption impact nearly all aspects of society. It exacerbates social, political, and economic inequality and polarization; impedes the ability of states to respond to public health crises or to deliver quality education; degrades the business environment and economic opportunity; drives conflict; and undermines faith in government. Those that abuse positions of power for private gain steal not just material wealth, but human dignity and welfare.¹

President Biden’s Strategy on Countering Corruption directly focused on the need to stop money laundering.² See, “Strategic Objective 2.1” directly focused on “Address[ing] deficiencies in the anti-money laundering regime.”

Given the War in Ukraine and the recent Danske Bank scandal (which documented the fact that \$240 billion was illegally laundered from Russia and former Soviet states into Western banks), the wisdom of President Biden’s focus on money laundering was full vindicated. The critical need to close the loopholes in AML and sanctions laws is an urgent legislative necessity.

We admire your distinguished record in fighting poverty and advancing the public interest. We hope this letter better explains how H.R. 7195 will achieve many of the goals you have dedicated your public service to achieving.

Thank you in advance for your kind attention to this letter, and for the consideration your staff has demonstrated toward us during our two prior meetings. We look forward to the opportunity to meet with your staff again to discuss these critical matters and the urgent need for a Dodd-Frank styled bill covering AML and sanctions-busting.

¹<https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/06/fact-sheet-u-s-strategy-on-countering-corruption/>. President Biden directly addressed the relationship between corruption and poverty: “Corruption threatens . . . economic equity, global anti-poverty and development efforts, and democracy itself.” *Id.*

² See United States Strategy on Countering Corruption, online at <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>.

Respectfully submitted,

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