

December 3, 2021

Dr. Marcus Pleyer
President
Financial Action Task Force
2, rue André Pascal
75775 Paris Cedex 16 FRANCE

RE: Draft Amendments to FATF Recommendation 24

Dear President Pleyer,

Thank you for the opportunity to provide my views on the Financial Action Task Force's draft amendments to Recommendation 24 and its Interpretive Note on the transparency and beneficial ownership of legal persons. The draft represents a significant improvement over the existing standard, but it still falls short of preventing the abuse of anonymous companies. Specifically, I encourage you to strengthen the proposal by: 1) removing countries' ability to create an "alternative mechanism" to central registries of beneficial ownership information; and 2) mandating that countries convert all existing bearer shares and warrants into registered entities within a year or two.

The world is engaged in a "clash of civilizations" between rule-of-law nations and those governed by autocracy, kleptocracy, and criminality. However, rule-of-law nations continue to aid and abet their adversaries by providing sanctuary for their stolen wealth. Transparency is the antidote. As a member of the United States Senate, I led the push to enact an historic transparency law earlier this year. This bill formally outlaws bearer shares and mandates the creation of a central register of beneficial ownership information at the U.S. Treasury Department's Financial Crimes Enforcement Network.

The Financial Action Task Force should strengthen its proposal and encourage other nations to follow suit. The Task Force's current proposal allows countries to choose between (1) a central register of beneficial ownership information and (2) "an alternative mechanism," so long as "it also provides authorities with efficient access to adequate, accurate and up-to-date [beneficial ownership] information." 110 countries—including the U.S.—have already committed to create central beneficial ownership registers.¹ These registers are the most efficient method for

¹ "Worldwide commitments and action," Open Ownership, accessed December 2, 2021, <https://www.openownership.org/map/>.

providing authorities with timely access to beneficial ownership information.² No alternative mechanisms currently exist which provide equivalent access to such information, and creating them (if even possible) could take several years—delaying the move toward transparency. The Financial Action Task Force should strengthen its proposal by requiring that all countries implement central registers now.

The Task Force should also mandate that countries convert all existing bearer shares to registered entities, in addition to banning the issuance of new bearer shares. Bearer shares have no legitimate purpose other than to obscure the true ownership of an entity, allowing kleptocrats and criminals to plunder with impunity. The vast majority of the 133 jurisdictions surveyed by the Tax Justice Network’s Financial Secrecy Index—including major economies like the U.S., U.K., and France—effectively ban bearer shares already.³ Forbidding the future issuance of bearer shares, as this proposal does, is a step in the right direction. But failing to require the immediate conversion of existing bearer shares into registered, traceable shares risks creating a secondary market of grandfathered, untraceable entities that could be purchased and exploited by kleptocrats and criminals in perpetuity.

The U.S. cannot end the abuse of anonymous corporate structures unilaterally; doing so requires a coordinated commitment from the international community. This consultation—in conjunction with the upcoming Summit for Democracy—presents a once in a decade opportunity to secure such a commitment. I hope you seize it.

Sincerely,



Sheldon Whitehouse
United States Senator

CC: The Honorable Janet Yellen, U.S. Secretary of the Treasury

² “Making central beneficial ownership registers public,” Open Ownership, published May 2021, <https://www.openownership.org/resources/making-central-beneficial-ownership-registers-public/>.

³ Moran Harari, Andres Knobel, Markus Meinzer, and Miroslav Palanský, “Ownership registration of different types of legal structures from an international comparative perspective,” *Tax Justice Network*, June 1, 2020, <https://www.taxjustice.net/wp-content/uploads/2020/11/State-of-play-of-beneficial-ownership-Update-2020-Tax-Justice-Network.pdf>.