



Fact Sheet: Close the Significant Gap in the U.S. Anti-Money Laundering Regime

The Problem

The U.S. lacks a framework for preventing corruption by domestic politically exposed persons. This gap poses significant threats to national security.

Politically exposed persons (PEPs) are individuals who hold or have held prominent public functions and, given their higher level of access to political decision-making and influence, are recognized as potentially posing a higher risk for engaging in money laundering and corruption.¹

In limited circumstances, foreign PEPs are covered by existing banking regulations.² But a major gap exists today: There are no laws, regulations, or obligations for financial institutions to scrutinize *domestic* PEPs. Domestic PEPs could present several national security risks, including the potential of bribery for illicit foreign influence peddling. These types of abuses have increased exponentially over the last decade, making the U.S. “the most common target of malign finance.”³

The recent arrest and prosecution of retired FBI Special Agent Charles McGonigal is a prominent example. As the counterintelligence chief of the FBI’s New York field office, McGonigal allegedly accepted payments from foreign nationals — including sanctioned Russian oligarch Oleg Deripaska — to do off-the-books work and launch investigations that would benefit these foreign parties. In January 2023, he was indicted in Washington, DC, and New York on federal charges of conspiracy, money laundering, and making false statements.⁴

McGonigal’s arrest has spurred bipartisan outrage, with lawmakers on both sides of the aisle requesting additional information about his arrest and long career at the FBI.⁵

¹ As defined by the intergovernmental standard-setting body, the Financial Action Task Force (FATF), of which the United States is a member. See FATF Guidance: Politically Exposed Persons (Recommendations 12 and 22), June 2013, 3, [https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20\(Rec%2012%20and%2022\)&text=A%20politically%20exposed%20person%20\(PEP,such%20as%20corruption%20or%20bribery.](https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20(Rec%2012%20and%2022)&text=A%20politically%20exposed%20person%20(PEP,such%20as%20corruption%20or%20bribery.)

² Board of Governors of the Federal Reserve System et al., *Joint Statement on Bank Secrecy Act Due Diligence Requirements for Customers Who May Be Considered Politically Exposed Persons* (August 21, 2020), https://www.fincen.gov/sites/default/files/shared/PEP%20Interagency%20Statement_FINAL%20508.pdf.

³ Alliance for Securing Democracy, German Marshall Fund of the United States, *Covert Foreign Money: Financial Loopholes Exploited by Authoritarians to Fund Political Interference in Democracies* (August 2020), 3, <https://securingdemocracy.gmfus.org/wp-content/uploads/2020/08/Covert-Foreign-Money-Policy-Brief.pdf> (also noting that the United States has been “hit more than 25 times” over the past decade).

⁴ Sealed Indictment, *United States v. Charles McGonigal and Sergy Shestakov*, 23 Cr. 016 (S.D.N.Y. 2023), <https://www.justice.gov/opa/press-release/file/1563486/download>; Grand Jury Indictment, *United States v. Charles F. McGonigal* 1:23 Cr. 00021 (CKK) (D.D.C. 2023), <https://storage.courtlistener.com/recap/gov.uscourts.dcd.251257/gov.uscourts.dcd.251257.1.0.pdf>.

⁵ Adam Klasfeld, “Senator Demands Answers from DOJ on Ex-FBI Counterintel Chief Allegedly on Russian Oligarch’s Payroll,” *Law & Crime*, February 2, 2023, <https://lawandcrime.com/high-profile/senator-demands-answers-from-doj-on-ex-fbi->

The incident has also highlighted the need for a legal framework to better detect and deter financial crimes by domestic PEPs. With no current framework in place, the threat of domestic PEPs commodifying classified information for financial gain will persist and continue to seriously threaten U.S. national security.

The Solution

Congress must clearly define domestic PEPs under federal law and establish a legal framework to better detect and prevent foreign influence peddling.

The Project On Government Oversight (POGO) supports proposed legislation to fill the current gap in federal law and ensure that future money laundering schemes, like those alleged against McGonigal, are better detected and prevented. The proposed legislation would make two necessary changes to existing federal anti-money laundering statutes.⁶

First, the draft bill defines “domestic PEPs” to include individuals with the highest access to sensitive information and the most significant policymaking influence. Under this rubric, “domestic PEPs” would include the president, vice president, federal elected officials, and their immediate family members. The legislation would also cover senior government officials, including positions comparable to McGonigal’s former post.

Second, the bill proposes heightened due diligence standards for any financial institution that “establishes, maintains, administers, or manages a banking account” for a domestic PEP. These standards require financial institutions to apply a level of scrutiny that fits the level of risk posed by the account holder. For example:

- financial institutions must “establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering and corruption through [domestic PEPs’] accounts”;
- when designing due diligence controls for domestic PEPs, “a financial institution shall ensure such controls are risk-based, in order to account for the fact that risks presented by domestic politically exposed persons vary by customer, product, service, location, and industry”; and
- when dealing with accounts belonging to domestic PEPs, financial institutions must take reasonable steps “to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and corruption and report any suspicious transactions.”

These changes would ensure that high-risk transactions, like those in the McGonigal case, no longer fly under the radar. By enacting this proposed legislation, Congress can make a strong, bipartisan statement: Access to America’s most sensitive information, and its levers of power, are not for sale.

Contact

Dylan Hedtler-Gaudette, Director of Government Affairs, Project On Government Oversight,
dylan.hedtlergaudette@pogo.org

[counterintel-chief-allegedly-on-russian-oligarchs-payroll/](#); Catherine Herridge and Melissa Quinn, “House Judiciary panel wants info from FBI about indicted ex-official Charles McGonigal,” *CBS News*, February 2, 2023, <https://www.cbsnews.com/news/charles-mcgonigal-house-judiciary-committee-fbi/>.

⁶ Offered Amendment 1401, H.R. 7900, National Defense Authorization Act (2021), https://amendments-rules.house.gov/amendments/NDAA_PEP_xml/21220712120305659.pdf.