POLICY CHECKLIST

70 Policy Recommendations on Countering Global Kleptocracy for the Biden Administration and 117th Congress

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Adapted from the Hudson Institute report, “Countering Global Kleptocracy: A New US Strategy for Fighting Authoritarian Corruption” by Nate Sibley and Ben Judah

Table of Contents

Actions for the Executive Branch ............................................................................................................................................ 2
   First Day in the Oval Office ................................................................................................................................. 2
   The First Year .................................................................................................................................................. 3
   The First Term .............................................................................................................................................. 4

Actions for Congress ......................................................................................................................................................... 5
   Unfinished Business ........................................................................................................................................ 5
   Top Priorities ................................................................................................................................................. 6
   Finishing the Fight ...................................................................................................................................... 6

About the Authors ......................................................................................................................................................... 8
Actions for the Executive Branch

First Day in the Oval Office

President-elect Biden has made clear his intention to issue a presidential policy directive establishing combating corruption as a core national security interest and democratic responsibility. Here is what that directive should include to kick-start America’s fight against global kleptocracy:

1. Announce a high-level interagency kleptocracy task-force, coordinated by the National Security Council, that is focused on protecting US institutions and targeting corruption overseas.

2. Direct the Treasury Department to begin implementing a US corporate beneficial ownership register mandated under the Anti-Money Laundering Act of 2020.

3. Instruct the Treasury Department to begin the process of expanding the anti-money laundering regime beyond traditional banks by including other high-risk sectors and professions in new or re-issued Bank Secrecy Act regulations. These should include: lawyers, accountants, fund managers, real estate professionals, public relations and public affairs firms, luxury goods dealers, celebrity agents, and educational and cultural institutions.

4. Direct the Treasury Department to begin implementing the cross-border electronic transmittals of funds database authorized by Congress under the Intelligence Reform and Terrorism Prevention Act of 2004.

5. Direct the Treasury Department to expand the Geographic Targeting Order pilot scheme on real estate transactions nationwide and begin publicizing key trends.

6. Support money laundering whistleblowers by ordering the Treasury and Justice Departments to begin implementing the new Bank Secrecy Act rewards scheme mandated by the Anti-Money Laundering Act.

7. Ensure various reports mandated by the Anti-Money Laundering Act on Chinese and Russian money laundering, trade-based money laundering, and authoritarian exploitation of the US financial system are completed diligently.

8. Designate a Special Envoy for countering kleptocracy.

9. End the practice of nominating major campaign donors to important ambassadorial appointments. These should instead be filled by senior State Department officials or other highly qualified country experts.


11. Instruct the Justice Department to prioritize enforcement of the Rodchenkov Anti-Doping Act, empowering US law enforcement to tackle pervasive authoritarian corruption in global sports.

12. Direct the Treasury Department and State Department to significantly expand the targeting of individual kleptocrats and their professional enablers using the Global Magnitsky Act, Section 7031(c), and other sanctions. Encourage democratic partners to introduce their own Global Magnitsky Act regimes, then work together on aligning designations.

13. Direct the Treasury Department to expand the use of Special Measures under Section 311 of the USA PATRIOT Act to target jurisdictions and institutions that facilitate global money laundering.
The First Year

The measures listed above would, at a stroke, put the US government on a war footing against transnational corruption and illicit finance. But other reforms necessary to consolidate and advance these efforts can be set in motion within a relatively short period of time:

14. Adopt a comprehensive approach to countering “threat finance” across the US government, removing outdated incentives for intelligence and law enforcement agencies to focus on terrorism and drug trafficking to the exclusion of other dangerous threats. Start by relaunching the Under Secretary and Office for Terrorism and Financial Intelligence at the Treasury Department as the Under Secretary and Office for Threat Finance.

15. Direct the Treasury Department, State Department and Intelligence Community to produce an annual Global Threat Finance Report assessing high-risk jurisdictions and themes, modelled on (or incorporating) the International Narcotics Control Strategy Report.

16. Strengthen formal channels of communication and cooperation on anti-money laundering between government agencies and the private sector. This should include reinvigorating FinCEN Exchange and the Bank Secrecy Act Advisory Group, as well as collaboration to improve the quality of Bank Secrecy Act reports.

17. Restore the office of Coordinator for Sanctions Policy at the State Department.

18. Instruct the State Department to deploy a network of anti-corruption specialists at US embassies worldwide, who can liaise with regional deputy assistant secretaries to create country-specific anti-corruption plans (see Countering Russian and Other Overseas Kleptocracy Act).

19. Ensure the SEC issues a strong, viable rule implementing Section 1504 of the Dodd-Frank Act, which requires extractives companies to disclose payments to governments – or if that proves impossible, ask Congress to re-legislate it.

20. Delist foreign companies that refuse to meet US auditing requirements as authorized by the Holding Foreign Companies Accountable Act of 2020.

21. Direct the Justice Department and other agencies to increase efforts to criminally prosecute senior employees of US banks and other businesses found to have engaged in corrupt acts, rather than relying on non- and deferred-prosecution agreements with their employers.

22. Introduce a “three strikes” rule regarding non- and deferred-prosecution agreements involving financial crime, to deter US firms that have become repeat offenders in enabling corruption.

23. Issue a time-limited ban on former law enforcement officers providing lobbying and legal services to private sector firms involved in corruption cases.

24. Pressure other democratic countries to increase their investigation and prosecution of the professional enablers of transnational corruption.

25. Clarify and streamline the process by which the US holds and returns funds confiscated from corrupt foreign officials. This could initially include publicly disclosing those funds in a more accessible format (see Justice for Victims of Kleptocracy Act).
26. Promote the adoption of foreign investment screening mechanisms based on the Committee on Foreign Investment in the United States among vulnerable democracies and security partners worldwide.

27. Provide stronger support for civil society and independent media within kleptocratic societies, for example through grants for researchers and journalists and by contributing to the new Global Media Defense Fund.

28. Work with Congress to further study trade-based money laundering and develop a comprehensive plan.

29. Strengthen inspections and oversight of US free trade zones.

30. Continue to research developments in cryptocurrency and other financial technology while aggressively targeting rogue exchanges.

The First Term
Some measures are less urgent or will require a longer-term approach to reform. Here is what the Executive Branch should aim to have underway by the end of President-elect Biden’s first term in office.

31. Commit to working with the international community to end offshore secrecy, not only by pressuring tax havens to meet anti-money laundering standards but also providing incentives for them to adopt more transparent financial systems.

32. Join the OECD Common Reporting Standard, but insist on the introduction of penalties for non-compliance and provision for countries that administer citizenship-based rather than residency-based taxation (if Congress ratifies the Convention on Mutual Administrative Assistance in Tax Matters).

33. Maintain efforts to counter disingenuous authoritarian anti-corruption campaigns such as China’s Operation Fox Hunt, and support other countries to do the same.

34. Instruct the Justice Department to conduct a study on how authoritarian regimes and their proxies abuse the US court system—especially the discovery process—to uncover otherwise confidential or sensitive information about political opponents, dissidents and critics, and introduce preventative measures.

35. Review whether the bank examination process remains appropriate and effective for anti-money laundering requirements, as mandated by the Anti-Money Laundering Act.

36. Work with international partners and the private sector to provide trusted, transparent alternatives to Chinese investment for infrastructure financing and other major projects through the US Development Finance Corporation, Blue Dot Network, and Economic Prosperity Network. This should be accompanied by public relations efforts to highlight the benefits to recipient populations of foreign investment that is accompanied by stringent anti-corruption standards.

37. Be prepared to better support countries undergoing historic democratic transitions with a “surge” of technical anti-corruption assistance designed to sustain reforms and build institutional resilience.

38. Prevent the loss of life-saving resources during the COVID-19 pandemic by dedicating a greater proportion of foreign healthcare assistance to improving transparency in procurement and delivery.

39. Ensure future US foreign aid and security assistance operations are accompanied by comprehensive anti-corruption plans from the outset, and prohibit disbursement of funds to contractors owned by foreign officials and/or their families except where it would harm broader US objectives to do so.
40. Lead a review of important privately-controlled nodes of the global financial system (e.g. the SWIFT messaging service) to ensure appropriate oversight is in place.

41. Emphasize corruption in the National Intelligence Priorities Framework and direct the US Intelligence Community to map, monitor and report on transnational corruption networks. Use this information to vet US investments and development assistance overseas.

42. Promote anti-kleptocracy measures through existing multilateral platforms such as the UN, G7, G20, World Bank, IMF, and FATF, and play a more active role in leading the Open Government Partnership.

43. Work to ensure counter-kleptocracy measures become a key component of NATO readiness requirements.

44. Launch a Global Kleptocracy Initiative with democratic allies and partners. This would initially endorse a statement of principles, help coordinate law enforcement efforts, and share best practices. In time, it would provide a platform for enforcing new global standards of financial transparency and government accountability, while incorporating existing multilateral anti-kleptocracy initiatives as well as acting to fill gaps in global anti-corruption governance.

Actions for Congress

Unfinished Business

The 116th Congress has seen unprecedented progress on advancing bipartisan legislation to protect the US financial system and target foreign corruption, but it is unlikely that all of these measures will make it into law before the end of 2020. However, the 117th Congress can pick these measures up straightaway if it chooses:

1. Require the Treasury Department, again under existing authorities or with new legislation, to expand Bank Secrecy Act/PATRIOT Act anti-money laundering requirements beyond traditional financial institutions to include other sectors and professions at risk of money laundering (see Rejecting Enemy Payments through Enforcement and Leadership Act, not yet introduced).

2. Strengthen prohibitions against foreign funding of US political campaigns by introducing broader definition of in-kind contributions; increased disclosure surrounding the use of shell companies, nonprofits and small donors; transparency in online ad purchasing and media outlet funding; and mandatory reporting of offers of assistance from foreign powers (see DISCLOSE Act, SHIELD Act, Honest Ads Act, and PAID AD Act).

3. Criminalize solicitation of bribery by foreign officials (see Foreign Extortion Prevention Act of 2019).

4. Ease the rule-making process for Special Measures under Section 311 of the USA PATRIOT Act and enable it to be applied to non-financial institutions involved in money laundering (see Rejecting Enemy Payments through Enforcement and Leadership Act, not yet introduced).

5. Authorize the Secretary of State to retroactively make public all US visa rejections made on the basis of the applicants’ involvement in serious corruption (see Kleptocrat Exposure Act of 2019).

6. Require the Executive Branch to demand greater transparency and accountability within Interpol, to prevent authoritarian misuse of the “Red Notice” system and other abuses (see Transnational Repression and Accountability (TRAP) Act of 2019).
Top Priorities

The measures above will help transform America’s fight against foreign corruption and illicit finance, but Congress will quickly need to go further to empower US law enforcement and address remaining urgent vulnerabilities:

7. Significantly increase resources for US law enforcement agencies tasked with fighting illicit finance, including FinCEN, the FBI’s International Corruption Squads, and the IRS.

8. Require the Treasury Department, under existing authorities or with new legislation, to implement a cross-border electronic remittal of funds database.

9. Mandate the disclosure of the beneficial ownership of companies used to purchase US real estate to the Treasury Department, effectively making Geographic Targeting Orders nationwide and permanent.

10. Explore the possibility of a US illicit enrichment law, perhaps modelled after the UK’s Unexplained Wealth Orders.

11. Protect foreign whistleblowers by creating a fast-tracked visa scheme.

12. Introduce a new State Sponsors of Transnational Organized Crime sanctions program to provide options for restraining regimes that deliberately and systematically engage in egregious acts of cross-border crime and corruption.

13. Replace the Foreign Agents Registration Act and Lobbying Disclosure Act with a single regime that removes ambiguities, gathers consistent and high-quality information, and removes the “foreign agent” pejorative.

14. Impose a lifetime ban on former Executive Branch senior officials and members of Congress lobbying on behalf of foreign governments and their proxies.

15. Launch a general review of foreign lobbying, both to clarify lobbying definitions and examine methods of excluding authoritarian influence from the US political system.

16. Reform the EB-5 investor visa scheme to address fraud and money laundering, or abolish it altogether.

17. Ratify the OECD Convention on Mutual Administrative Assistance in Tax Matters so that the US can join the Common Reporting Standard.

18. Mandate the creation of a register of the beneficial ownership of US trusts.

19. Introduce a federal “anti-SLAPP” law to deter kleptocrats from launching vexatious lawsuits against investigative journalists.

Finishing the Fight

If the measures above are enacted, the United States will be in a strong position to defend its own financial borders while reasserting global leadership against authoritarian kleptocracy. The following measures will further enhance its ability to do so:

20. Authorize the creation of a Global Politically Exposed Persons Register and require financial institutions to screen US officials for money laundering risks as they do to foreign officials.

21. Curtail authoritarian influence in US public life by making it legally impossible - or at least reputationally disastrous - for lobbyists, PR firms, media outlets and social media firms, and educational and cultural institutions to accept tainted authoritarian funding.
22. Work with the administration to further study and if necessary act against trade-based money laundering, free trade zones, the illicit gold trade, and other overlooked areas.

23. Review whether it would be beneficial to share confidential information pertaining to CFIUS decisions with trusted security partners including the Five Eyes countries.

24. Increase or at least maintain funding for the National Endowment for Democracy and other groups providing support for civil society and independent media within authoritarian societies.

25. Implement commitments made under the Open Government Partnership, which will allow the United States to play a stronger role within the organization and integrate in multilateral and bilateral relations.

26. Launch an Inter-Parliamentary Alliance Against Kleptocracy, modelled on the highly influential China group but with a broader scope.
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