

United States Senate

WASHINGTON DC, 20510

December 10, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Schumer
Senate Minority Leader
United States Senate
Washington, D.C. 20510

Leaders McConnell and Schumer,

The undersigned Senators have serious reservations regarding the policy and the process of including the Anti-Money Laundering Act of 2020 (AMLA) in the conference report accompanying the National Defense Authorization Act for Fiscal Year 2021 (NDAA). This provision is outside the jurisdiction of the Armed Services Committee, has not been considered by the appropriate Senate Committees or the full Senate, creates a substantial regulatory burden on millions of small businesses, exposes business owners to significant financial penalties and jail terms, and it threatens their privacy and due process rights.

Under the AMLA, an estimated 11 million small business owners will be required to provide the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) with the personal information of all the beneficial owners of the business. Few small business owners are familiar with FinCEN and may be reluctant to provide their personal information to the federal law enforcement agency. Willful failure to provide completed and updated information to FinCEN, however, would be subject to significant civil and criminal penalties.

These burdens and penalties would be imposed on America's small business community in an effort to fight money laundering and other financial crimes. We doubt actual criminals will voluntarily provide incriminating information to FinCEN or that the agency could effectively manage a database the Congressional Budget Office estimates would receive 25 to 30 million initial reports. On the other hand, millions of law-abiding business owners will be subject to new reporting requirements and penalties if they fail to keep their information current and accurate.

The provision lessens privacy protections and threatens due process rights. Currently, the personal information of small business owners collected by the federal government is protected by a warrant or subpoena. This provision removes that protection, raising significant Fourth Amendment concerns.

Finally, this provision is outside the jurisdiction of the Senate Armed Services Committee and was not reported by the Senate Banking Committee, where it should have received a more thorough debate.

For these reasons, we strongly oppose including the AMLA in the NDAA.

Sincerely,



Ted Cruz
United States Senator



Kevin Cramer
United States Senator



Michael S. Lee
United States Senator



Steve Daines
United States Senator



Mike Braun
United States Senator