

116TH CONGRESS
2D SESSION

H. R. 6056

To establish the obligations of certain large business entities in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2020

Mr. LUJÁN (for himself and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Financial Services, House Administration, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the obligations of certain large business entities in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Accountable Cap-
5 italism Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COVERED EMPLOYEE.—The term “covered
2 employee”—

3 (A) means—

4 (i) an individual who is—

5 (I) an employee (including an ap-
6 plicant), as defined in section 701 of
7 the Civil Rights Act of 1964 (42
8 U.S.C. 2000e);

9 (II) a State employee (including
10 an applicant), as described in section
11 304(a) of the Government Employee
12 Rights Act of 1991 (42 U.S.C.
13 2000e–16c(a));

14 (III) a covered employee (includ-
15 ing an applicant), as defined in sec-
16 tion 101 of the Congressional Ac-
17 countability Act of 1995 (2 U.S.C.
18 1301);

19 (IV) a covered employee (includ-
20 ing an applicant), as defined in sec-
21 tion 411(c) of title 3, United States
22 Code;

23 (V) an employee, as defined in
24 section 11 of the Age Discrimination

1 in Employment Act of 1967 (29
2 U.S.C. 630);

3 (VI) an employee, as defined in
4 section 101 of the Americans with
5 Disabilities Act of 1990 (42 U.S.C.
6 12111);

7 (VII) an employee, as described
8 in section 501(b) of the Rehabilitation
9 Act of 1973 (29 U.S.C. 791(b));

10 (VIII) an employee, as defined in
11 section 3 of the Fair Labor Standards
12 Act of 1938 (29 U.S.C. 203);

13 (IX) an employee or applicant to
14 which section 717(a) of the Civil
15 Rights Act of 1964 (42 U.S.C.
16 2000e-16(a)) applies; or

17 (X) a person (other than an em-
18 ployer) to whom subsections (a) and
19 (b) of section 4311 of title 38, United
20 States Code, apply; and

21 (ii) an individual who is engaged by,
22 or applies for or otherwise seeks a position
23 with, a covered employer or entity, whether
24 or not the individual receives compensa-
25 tion, academic credit, or other remunera-

1 tion from the covered employer or entity,
2 as—

3 (I) an independent contractor; or

4 (II) an intern, fellow, volunteer,
5 or trainee; and

6 (B) does not include a management offi-
7 cial, as defined in section 7103(a)(11) of title 5,
8 United States Code.

9 (2) COVERED EMPLOYER OR ENTITY.—The
10 term “covered employer or entity” means a person,
11 including an entity, regardless of business structure,
12 including organization as a legal or commercial enti-
13 ty, that is—

14 (A) an employer, as defined in section 701
15 of the Civil Rights Act of 1964;

16 (B) an entity employing a State employee
17 described in section 304(a) of the Government
18 Employee Rights Act of 1991;

19 (C) an employing office, as defined in sec-
20 tion 101 of the Congressional Accountability
21 Act of 1995;

22 (D) an employing office, as defined in sec-
23 tion 411(c) of title 3, United States Code;

1 (E) an employer, as defined in section 11
2 of the Age Discrimination in Employment Act
3 of 1967;

4 (F) an employer, as defined in section 101
5 of the Americans with Disabilities Act of 1990;

6 (G) an entity described in section 501(b)
7 of the Rehabilitation Act of 1973 (29 U.S.C.
8 791(b));

9 (H) an employer, as defined in section 3 of
10 the Fair Labor Standards Act of 1938;

11 (I) an entity to which section 717(a) of the
12 Civil Rights Act of 1964 applies; or

13 (J) an employer to whom subsections (a)
14 and (b) of section 4311 of title 38, United
15 States Code, apply.

16 (3) DIRECTOR.—The term “Director” means
17 the Director of the Office.

18 (4) LARGE ENTITY.—

19 (A) IN GENERAL.—The term “large enti-
20 ty” means an entity that—

21 (i) is organized under the laws of a
22 State as a corporation, body corporate,
23 body politic, joint stock company, or lim-
24 ited liability company;

1 (ii) engages in interstate commerce;

2 and

3 (iii) in a taxable year, according to in-
4 formation provided by the entity to the In-
5 ternal Revenue Service, has more than
6 \$1,000,000,000 in gross receipts.

7 (B) AGGREGATION RULES.—All entities
8 treated as a single employer under subsection
9 (a) or (b) of section 52 of the Internal Revenue
10 Code of 1986, or subsection (m) or (o) of sec-
11 tion 414 of such Code, shall be treated as 1 en-
12 tity for the purposes of subparagraph (A).

13 (5) OFFICE.—The term “Office” means the Of-
14 fice of United States Corporations established under
15 section 3.

16 (6) OFFICER.—The term “officer” means, with
17 respect to a United States corporation—

18 (A) the president of the United States cor-
19 poration;

20 (B) the principal operating officer of the
21 United States corporation;

22 (C) the principal accounting officer of the
23 United States corporation or, if the United
24 States corporation does not have such an ac-

1 counting officer, the controller of the United
2 States corporation; and

3 (D) any vice president in charge of a prin-
4 cipal business unit, division, or function of the
5 United States corporation.

6 (7) STATE.—The term “State” means—

7 (A) each of the several States of the
8 United States;

9 (B) the District of Columbia;

10 (C) the Commonwealth of Puerto Rico;

11 (D) Guam;

12 (E) the United States Virgin Islands;

13 (F) American Samoa; and

14 (G) the Commonwealth of the Northern
15 Mariana Islands.

16 (8) UNITED STATES CORPORATION.—The term
17 “United States corporation” means a large entity
18 with respect to which the Office has granted a char-
19 ter under section 3.

20 **SEC. 3. OFFICE OF UNITED STATES CORPORATIONS.**

21 (a) ESTABLISHMENT.—There is established within
22 the Department of Commerce the Office of United States
23 Corporations.

24 (b) DIRECTOR.—

1 (1) ESTABLISHMENT OF POSITION.—There is
2 established the position of Director of the Office,
3 who shall be the head of the Office.

4 (2) APPOINTMENT; TERM.—

5 (A) APPOINTMENT.—Except as provided in
6 subparagraph (E), the Director shall be ap-
7 pointed by the President, by and with the ad-
8 vice and consent of the Senate, from among in-
9 dividuals who are citizens of the United States.

10 (B) TERM.—The Director shall be ap-
11 pointed for a term of 4 years, unless removed
12 before the end of that term by the President.

13 (C) VACANCY.—A vacancy in the position
14 of Director that occurs before the expiration of
15 the term for which a Director was appointed
16 shall be filled in the manner established under
17 subparagraph (A), and the Director appointed
18 to fill that vacancy shall be appointed only for
19 the remainder of that term.

20 (D) SERVICE AFTER END OF TERM.—An
21 individual may serve as the Director after the
22 expiration of the term for which the individual
23 was appointed until a successor has been ap-
24 pointed.

1 (E) INITIAL DIRECTOR.—The Secretary of
2 Commerce shall appoint an individual to serve
3 as the Director until an individual is appointed
4 to serve as the Director in accordance with sub-
5 paragraph (A).

6 (c) DUTIES.—The Office shall—

7 (1) review and grant charter applications for
8 large entities;

9 (2) monitor whether large entities have ob-
10 tained a charter in accordance with this Act;

11 (3) except as provided in paragraph (4)(B),
12 refer any violation of this Act to the appropriate
13 Federal agency for enforcement with respect to that
14 violation; and

15 (4) when appropriate—

16 (A) rescind the charters of United States
17 corporations under section 4(b);

18 (B) revoke the charters of United States
19 corporations under sections 6(c)(2)(B)(ii),
20 8(e)(2), and 9; and

21 (C) issue rules to prevent entities from
22 taking action to intentionally avoid qualifying
23 as large entities.

24 (d) DISCLOSURE OF TAXPAYER IDENTITY INFORMA-
25 TION FOR USE BY OFFICE.—

1 (1) IN GENERAL.—Section 6103(m) of the In-
2 ternal Revenue Code of 1986 is amended by adding
3 at the end the following:

4 “(8) OFFICE OF UNITED STATES CORPORA-
5 TIONS.—Upon written request by the Director of the
6 Office of United States Corporations, the Secretary
7 shall disclose taxpayer identity information to offi-
8 cers and employees of the Office of United States
9 Corporations solely for purposes of identifying any
10 taxpayer that satisfies the requirement under section
11 2(2)(A)(iii) or 4(b) of the Accountable Capitalism
12 Act for the most recent taxable year for which infor-
13 mation is available.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall take effect on the date of en-
16 actment of this Act.

17 **SEC. 4. REQUIREMENT FOR LARGE ENTITIES TO OBTAIN**
18 **CHARTERS.**

19 (a) LARGE ENTITIES.—

20 (1) IN GENERAL.—An entity that is organized
21 as a corporation, body corporate, body politic, joint
22 stock company, or limited liability company in a
23 State shall obtain a charter from the Office as fol-
24 lows:

1 (A) If the entity is a large entity with re-
2 spect to the most recently completed taxable
3 year of the entity before the date of enactment
4 of this Act, the entity shall obtain the charter
5 not later than 2 years after the date of enact-
6 ment of this Act.

7 (B) If the entity is a large entity with re-
8 spect to any taxable year of the entity that be-
9 gins after the date of enactment of this Act, the
10 entity shall obtain the charter not later than 1
11 year after the last day of that taxable year.

12 (2) FAILURE TO OBTAIN CHARTER.—An entity
13 to which paragraph (1) applies and that fails to ob-
14 tain a charter from the Office as required under
15 that paragraph shall not be treated as a corporation,
16 body corporate, body politic, joint stock company, or
17 limited liability company, as applicable, for the pur-
18 poses of Federal law during the period beginning on
19 the date on which the entity is required to obtain a
20 charter under that paragraph and ending on the
21 date on which the entity obtains the charter.

22 (b) RESCISSIONS.—

23 (1) IN GENERAL.—An entity that has obtained
24 a charter as a United States corporation and, with
25 respect to a subsequent taxable year of the entity,

1 is not a large entity may file a petition with the Of-
2 fice to rescind the charter of the United States cor-
3 poration.

4 (2) DETERMINATION.—Not later than 180 days
5 after the date on which the Office receives a petition
6 that an entity files under paragraph (1), the Office
7 shall grant the petition if the Office determines that
8 the entity, with respect to the most recently com-
9 pleted taxable year of the entity preceding the date
10 on which the petition was filed, was not a large enti-
11 ty.

12 **SEC. 5. RESPONSIBILITIES OF UNITED STATES CORPORA-**
13 **TIONS.**

14 (a) DEFINITIONS.—In this section:

15 (1) GENERAL PUBLIC BENEFIT.—The term
16 “general public benefit” means a material positive
17 impact on society resulting from the business and
18 operations of a United States corporation, when
19 taken as a whole.

20 (2) SUBSIDIARY.—The term “subsidiary”
21 means, with respect to a person, an entity in which
22 the person owns beneficially or of record not less
23 than 50 percent of the outstanding equity interests
24 of the entity, calculated as if all outstanding rights

1 to acquire equity interests in the entity had been ex-
2 exercised.

3 (b) CHARTER REQUIREMENTS.—

4 (1) IN GENERAL.—The charter of a large entity
5 that is filed with the Office shall state that the enti-
6 ty is a United States corporation.

7 (2) CORPORATE PURPOSES.—A United States
8 corporation shall have the purpose of creating a gen-
9 eral public benefit, which shall be—

10 (A) identified in the charter of the United
11 States corporation; and

12 (B) in addition to the purpose of the
13 United States corporation under the articles of
14 incorporation in the State in which the United
15 States corporation is incorporated, if applicable.

16 (c) STANDARD OF CONDUCT FOR DIRECTORS AND
17 OFFICERS.—

18 (1) CONSIDERATION OF INTERESTS.—In dis-
19 charging the duties of their respective positions, and
20 in considering the best interests of a United States
21 corporation, the board of directors, committees of
22 the board of directors, and individual directors of a
23 United States corporation—

1 (A) shall manage or direct the business
2 and affairs of the United States corporation in
3 a manner that—

4 (i) seeks to create a general public
5 benefit; and

6 (ii) balances the pecuniary interests of
7 the shareholders of the United States cor-
8 poration with the best interests of persons
9 that are materially affected by the conduct
10 of the United States corporation; and

11 (B) in carrying out subparagraph (A)—

12 (i) shall consider the effects of any ac-
13 tion or inaction on—

14 (I) the shareholders of the
15 United States corporation;

16 (II) the employees and workforce
17 of—

18 (aa) the United States cor-
19 poration;

20 (bb) the subsidiaries of the
21 United States corporation; and

22 (cc) the suppliers of the
23 United States corporation;

24 (III) the interests of customers
25 and subsidiaries of the United States

1 corporation as beneficiaries of the
2 general public benefit purpose of the
3 United States corporation;

4 (IV) community and societal fac-
5 tors, including those of each commu-
6 nity in which offices or facilities of the
7 United States corporation, subsidi-
8 aries of the United States corporation,
9 or suppliers of the United States cor-
10 poration are located;

11 (V) the local and global environ-
12 ment;

13 (VI) the short-term and long-
14 term interests of the United States
15 corporation, including—

16 (aa) benefits that may ac-
17 crue to the United States cor-
18 poration from the long-term
19 plans of the United States cor-
20 poration; and

21 (bb) the possibility that
22 those interests may be best
23 served by the continued inde-
24 pendence of the United States
25 corporation; and

1 (VII) the ability of the United
2 States corporation to accomplish the
3 general public benefit purpose of the
4 United States corporation;

5 (ii) may consider—

6 (I) other pertinent factors; or

7 (II) the interests of any other
8 group that are identified in the arti-
9 cles of incorporation in the State in
10 which the United States corporation is
11 incorporated, if applicable; and

12 (iii) shall not be required to give pri-
13 ority to a particular interest or factor de-
14 scribed in clause (i) or (ii) over any other
15 interest or factor.

16 (2) STANDARD OF CONDUCT FOR OFFICERS.—

17 Each officer of a United States corporation shall
18 balance and consider the interests and factors de-
19 scribed in paragraph (1)(B)(i) in the manner de-
20 scribed in paragraph (1)(B)(iii) if—

21 (A) the officer has discretion to act with
22 respect to a matter; and

23 (B) it reasonably appears to the officer
24 that the matter may have a material effect on
25 the creation by the United States corporation of

1 a general public benefit identified in the charter
2 of the United States corporation.

3 (3) EXONERATION FROM PERSONAL LIABIL-
4 ITY.—Except as provided in the charter of a United
5 States corporation, neither a director nor an officer
6 of a United States corporation may be held person-
7 ally liable for monetary damages for—

8 (A) any action or inaction in the course of
9 performing the duties of a director under para-
10 graph (1) or an officer under paragraph (2), as
11 applicable, if the director or officer was not in-
12 terested with respect to the action or inaction;
13 or

14 (B) the failure of the United States cor-
15 poration to pursue or create a general public
16 benefit.

17 (4) LIMITATION ON STANDING.—Neither a di-
18 rector nor an officer of a United States corporation
19 shall have any duty to a person that is a beneficiary
20 of the general public benefit purpose of the United
21 States corporation because of the status of the per-
22 son as such a beneficiary.

23 (5) BUSINESS JUDGMENTS.—A director or an
24 officer of a United States corporation who makes a
25 business judgment in good faith shall be deemed to

1 have fulfilled the duty of the director under para-
2 graph (1) or the officer under paragraph (2), as ap-
3 plicable, if the director or officer—

4 (A) is not interested in the subject of the
5 business judgment;

6 (B) is informed with respect to the subject
7 of the business judgment to an extent that the
8 director reasonably believes to be appropriate
9 under the circumstances; and

10 (C) rationally believes that the business
11 judgment is in the best interests of the United
12 States corporation.

13 (d) RIGHT OF ACTION.—

14 (1) LIMITATION ON LIABILITY OF CORPORA-
15 TION.—A United States corporation shall not be lia-
16 ble for monetary damages under this section for any
17 failure of the United States corporation to pursue or
18 create a general public benefit.

19 (2) STANDING.—A proceeding to enforce the re-
20 quirements of this section may be commenced or
21 maintained only—

22 (A) directly by the United States corpora-
23 tion to which the proceeding applies; or

24 (B) derivatively, under the laws of the
25 State in which the United States corporation is

1 organized, by a person, or a group of persons,
2 that own—

3 (i) beneficially or of record not less
4 than 2 percent of the total number of
5 shares of a class or series outstanding at
6 the time of the act or omission that is the
7 subject of the proceeding; or

8 (ii) beneficially or of record not less
9 than 5 percent of the outstanding equity
10 interests in an entity of which the United
11 States corporation is a subsidiary at the
12 time of the act or omission that is the sub-
13 ject of the proceeding.

14 (3) RULE OF CONSTRUCTION REGARDING BEN-
15 EFICIAL OWNERSHIP.—For the purposes of this sub-
16 section, a person shall be construed to be the bene-
17 ficial owner of shares or equity interests if the
18 shares or equity interests are held in a voting trust
19 or by a nominee on behalf of the person.

20 (e) APPLICATION.—

21 (1) RULE OF CONSTRUCTION REGARDING GEN-
22 ERAL CORPORATE LAW.—Nothing in this section
23 may be construed to affect any provision of law that
24 is applicable to a corporation, body corporate, body
25 politic, joint stock company, or limited liability com-

1 pany, as applicable, that is not a United States cor-
2 poration.

3 (2) APPLICABILITY OF OTHER LAWS.—

4 (A) STATE LAW.—Except as otherwise pro-
5 vided in this section, the law of the State in
6 which a United States corporation is organized
7 shall apply with respect to the United States
8 corporation.

9 (B) FEDERAL LAW.—If any provision of
10 Federal law is inconsistent with the require-
11 ments of this section with respect to a United
12 States corporation, the requirements of this sec-
13 tion shall supersede that provision.

14 (3) ORGANIC RECORDS.—A provision of the ar-
15 ticles of incorporation in the State in which a United
16 States corporation is incorporated, if applicable, or
17 in the bylaws of a United States corporation may
18 not limit, be inconsistent with, or supersede a provi-
19 sion of this section.

20 **SEC. 6. BOARD REPRESENTATION.**

21 (a) RULEMAKING.—Not later than 1 year after the
22 date of enactment of this Act, the Securities and Ex-
23 change Commission, in consultation with the National
24 Labor Relations Board, shall issue rules to ensure that—

1 (1) director elections at United States corpora-
2 tions are fair and democratic;

3 (2) employee representation is meaningful and
4 appropriate, taking into consideration—

5 (A) diversity of race, ethnicity, gender, sex-
6 ual orientation, and gender identity; and

7 (B) the affiliation to historically underrep-
8 resented groups, including veterans of the
9 Armed Forces and individuals with disabilities;

10 (3) covered employees that serve as a director
11 of a United States corporation may be dismissed
12 only for just cause; and

13 (4) covered employees receive any disclosure re-
14 quired to be made by the United States corporation
15 to shareholders under the Securities and Exchange
16 Act of 1934 (15 U.S.C. 78a et seq.).

17 (b) UNITED STATES CORPORATION ELECTIONS.—

18 (1) IN GENERAL.—Not less than $\frac{2}{5}$ of the di-
19 rectors of a United States corporation shall be elect-
20 ed by the covered employees of the United States
21 corporation using an election process that complies
22 with the requirements of the rules issued under sub-
23 section (a).

24 (2) EFFECTIVE DATE.—Paragraph (1) shall
25 take effect on the date that is 1 year after the date

1 on which the Securities and Exchange Commission
2 issues the rules required under subsection (a).

3 (c) ENFORCEMENT.—

4 (1) SECURITIES AND EXCHANGE COMMIS-
5 SION.—The Securities and Exchange Commission, in
6 consultation with the National Labor Relations
7 Board, shall ensure that the elections described in
8 subsection (b)(1) comply with the requirements of
9 the rules issued by the Commission under subsection
10 (a).

11 (2) DEPARTMENT OF LABOR.—

12 (A) IN GENERAL.—The Secretary of Labor
13 shall coordinate with the Office to ensure that
14 the representation of the boards of directors of
15 United States corporations comply with the re-
16 quirements under subsection (b).

17 (B) PENALTIES.—If the representation
18 with respect to the board of directors of a
19 United States corporation fails to comply with
20 the requirements under subsection (b) for a pe-
21 riod that is not less than 180 consecutive
22 days—

23 (i) the Secretary of Labor—

24 (I) shall assess a civil money pen-
25 alty against the United States cor-

1 poration in an amount that is not less
2 than \$50,000 and not more than
3 \$100,000 for each day that such rep-
4 resentation is not in compliance with
5 those requirements, including for each
6 day during that 180-day period; and
7 (II) may collect the penalty de-
8 scribed in subclause (I) beginning on
9 the day after the date on which that
10 180-day period ends; and
11 (ii) the Office may revoke the charter
12 of the United States corporation.

13 **SEC. 7. EXECUTIVE COMPENSATION.**

14 (a) DEFINITIONS.—In this section:

15 (1) COVERED PERSON.—The term “covered
16 person” means an officer or a director of a United
17 States corporation.

18 (2) EQUITY SECURITY.—The term “equity secu-
19 rity” has the meaning given the term in section 3(a)
20 of the Securities Exchange Act of 1934 (15 U.S.C.
21 78c(a)).

22 (3) RULE 10B–18 PURCHASE.—The term “Rule
23 10b–18 purchase” has the meaning given the term
24 in section 240.10b–18(a) of title 17, Code of Federal

1 Regulations, as in effect on the date of enactment of
2 this Act.

3 (4) SUBJECT SECURITY.—The term “subject
4 security” means any—

5 (A) equity security of a United States cor-
6 poration; or

7 (B) security, the value of which is derived
8 from, or that otherwise relates to, an equity se-
9 curity described in subparagraph (A).

10 (b) SALE OF SUBJECT SECURITIES.—

11 (1) PROHIBITIONS.—Subject to paragraph (2),
12 no covered person with respect to a United States
13 corporation may—

14 (A) during the 5-year period that begins
15 on the date on which the covered person first
16 owns or beneficially owns a subject security
17 with respect to that United States corporation
18 (or an affiliate of that United States corpora-
19 tion), sell, transfer, pledge, assign, alienate, or
20 hypothecate, in exchange for value, that subject
21 security, other than—

22 (i) in connection with the sale of the
23 United States corporation or the affiliate,
24 as applicable; or

25 (ii) through—

1 (I) a will; or

2 (II) the laws of descent or dis-
3 tribution; or

4 (B) during the 3-year period that begins
5 on the date on which that United States cor-
6 poration, or an affiliate of that United States
7 corporation, effects a Rule 10b–18 purchase,
8 sell any subject security with respect to that
9 United States corporation.

10 (2) APPLICATION.—The prohibition under para-
11 graph (1) shall not apply with respect to any subject
12 security that a covered person owns or beneficially
13 owns on the day before the date of enactment of this
14 Act.

15 (c) ENFORCEMENT.—The Securities and Exchange
16 Commission may impose on any covered person that vio-
17 lates subsection (b) a civil penalty in an amount that is—

18 (1) not less than the fair market value of the
19 subject securities of which the covered person dis-
20 poses in violation of that subsection, as measured on
21 the date on which the covered person makes the dis-
22 position; and

23 (2) not more than the amount that is 3 times
24 the fair market value of the subject securities of
25 which the covered person disposes in violation of

1 that subsection, as measured on the date on which
2 the covered person makes the disposition.

3 (d) **RULE OF CONSTRUCTION.**—For the purposes of
4 this section, a subject security is beneficially owned by a
5 covered person if—

6 (1) the subject security is held in the name of
7 a bank, broker, or nominee for the account of the
8 covered person;

9 (2) the subject security is held as a joint ten-
10 ant, tenant in common, or tenant by the entirety or
11 as community property by the covered person; or

12 (3) the covered person has a pecuniary interest,
13 by reason of any contract, understanding, or rela-
14 tionship, including an immediate family relationship
15 or arrangement, in subject securities held in the
16 name of another person.

17 **SEC. 8. POLITICAL SPENDING.**

18 (a) **DEFINITIONS.**—In this section:

19 (1) **ELECTIONEERING COMMUNICATION.**—The
20 term “electioneering communication” has the mean-
21 ing given the term in section 304(f)(3) of the Fed-
22 eral Election Campaign Act of 1971 (52 U.S.C.
23 30104(f)(3)), except that the term “any public com-
24 munication” shall be substituted for “any broadcast,
25 cable, or satellite communication” in the matter pre-

1 ceding subclause (I) of subparagraph (A)(i) of such
2 section 304(f)(3).

3 (2) INDEPENDENT EXPENDITURE.—The term
4 “independent expenditure” means an expenditure, as
5 that term is defined in section 301 of the Federal
6 Election Campaign Act of 1971 (52 U.S.C. 30101),
7 by a person that expressly advocates the election or
8 defeat of a clearly identified candidate, or is the
9 functional equivalent of express advocacy because,
10 when taken as a whole, the expenditure can be inter-
11 preted by a reasonable person only as advocating the
12 election or defeat of a candidate, taking into account
13 whether the communication involved—

14 (A) mentions a candidacy, a political party,
15 or a challenger to a candidate; or

16 (B) takes a position on character, quali-
17 fications, or fitness for office of a candidate.

18 (3) POLITICAL EXPENDITURE IN SUPPORT OF
19 OR IN OPPOSITION TO ANY CANDIDATE FOR FED-
20 ERAL, STATE, OR LOCAL PUBLIC OFFICE.—The term
21 “political expenditure in support of or in opposition
22 to any candidate for Federal, State, or local public
23 office” means an expenditure or series of expendi-
24 tures totaling more than \$10,000 for any single can-
25 didate during any single election that—

1 (A)(i) is an independent expenditure; or
2 (ii) with respect to a candidate for State or
3 local public office, would be treated as an inde-
4 pendent expenditure if the candidate were a
5 candidate for Federal public office;

6 (B)(i) is an electioneering communication;
7 or

8 (ii) with respect to a candidate for State or
9 local public office, would be treated as an elec-
10 tioneering communication if the candidate were
11 a candidate for Federal public office; or

12 (C) are dues or other payments, disburse-
13 ments, or transfers to any other person that—

14 (i) are, or could reasonably be antici-
15 pated to be, used or transferred to another
16 association or organization for the pur-
17 poses described in subparagraph (A) or
18 (B); and

19 (ii) are not investments or payments,
20 disbursements, or transfers made in com-
21 mercial transactions in the ordinary course
22 of any trade or business.

23 (b) SHAREHOLDER AND DIRECTOR APPROVAL.—A
24 United States corporation may not make a political ex-

1 penditure in support of or in opposition to any candidate
2 for Federal, State, or local public office unless—

3 (1) not less than 75 percent of the shareholders
4 of the corporation and not less than 75 percent of
5 the directors of the corporation approve of the ex-
6 penditure; and

7 (2) the approvals required under paragraph (1)
8 occur—

9 (A) before the date on which the expendi-
10 ture is made or obligated; and

11 (B) after the date on which the share-
12 holders and directors described in that para-
13 graph have been informed regarding the precise
14 nature of the proposed expenditure, including—

15 (i) the amount of the proposed ex-
16 penditure; and

17 (ii) the candidate and election to
18 which the proposed expenditure relates.

19 (c) ENFORCEMENT.—

20 (1) SHAREHOLDER SUIT.—A shareholder of a
21 United States corporation may bring a civil action in
22 an appropriate district court of the United States to
23 enjoin a United States corporation from making a
24 political expenditure in support of or in opposition to
25 any candidate for Federal, State, or local public of-

1 fice that violates the requirements under subsection
2 (b).

3 (2) REVOCATION OF CHARTER.—The Office
4 may revoke the charter of a United States corpora-
5 tion that knowingly or repeatedly violates the re-
6 quirements under subsection (b).

7 **SEC. 9. PETITION FOR REVOCATION OF CHARTER.**

8 (a) FILING OF REVOCATION PETITION.—The attor-
9 ney general of a State may file a petition with the Office
10 to revoke the charter of a United States corporation that
11 is organized in that State or that does business in that
12 State.

13 (b) TIMING OF RESPONSE AND DECISION.—If a rev-
14 ocation petition is filed under subsection (a) with respect
15 to a United States corporation—

16 (1) not later than 180 days after the date on
17 which the petition is filed, the United States cor-
18 poration may file a response that explains why re-
19 voking the charter of the United States corporation
20 is not justified in consideration of the factors de-
21 scribed in subsection (c)(2); and

22 (2) the Director shall issue a ruling with re-
23 spect to the petition not later than 180 days after
24 the earlier of the date that is—

1 (A) 180 days after the date on which the
2 petition is filed; or

3 (B) the date on which the corporation files
4 a response under paragraph (1).

5 (c) GRANTING REVOCATION PETITION.—

6 (1) IN GENERAL.—The Director, with the ap-
7 proval of the Secretary of Commerce, and after con-
8 sideration of the factors described in paragraph (2),
9 may grant a revocation petition that is filed under
10 subsection (a).

11 (2) FACTORS.—In determining whether to
12 grant a revocation petition under paragraph (1) with
13 respect to a United States corporation, the Director
14 shall consider whether the United States corpora-
15 tion—

16 (A) has engaged in repeated, egregious,
17 and illegal misconduct that has caused signifi-
18 cant harm to—

19 (i) the customers, employees, share-
20 holders, or business partners of the United
21 States corporation; or

22 (ii) the communities in which the
23 United States corporation operates; and

24 (B) has not undertaken measures to ad-
25 dress the causes of the misconduct described in

1 subparagraph (A), such as terminating the em-
2 ployment of any officer or executive of the
3 United States corporation who oversaw that
4 misconduct.

5 (3) REVIEW OF GRANTING OF PETITION.—A
6 decision by the Director to grant a revocation peti-
7 tion under this subsection—

8 (A) shall be subject to judicial review
9 under section 706 of title 5, United States
10 Code; and

11 (B) shall not be subject to the procedure
12 for congressional disapproval under section 802
13 of title 5, United States Code.

14 (d) REVOCATION OF CHARTER.—If the Director
15 grants a revocation petition under subsection (c) with re-
16 spect to a United States corporation, the Office shall re-
17 voke the charter of that corporation, which shall be effec-
18 tive beginning on the date that is 1 year after the date
19 on which the Director grants the petition.

20 (e) RULEMAKING.—The Director may issue any rules
21 that are necessary to carry out this section.

22 **SEC. 10. SEVERABILITY.**

23 If any provision of this Act, or any application of that
24 provision to any person or circumstance, is held to be in-
25 valid, the remainder of the provisions of this Act and the

- 1 application of any such provision to any other person or
- 2 circumstance shall not be affected.

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