To promote international efforts in combating corruption, kleptocracy, and illicit finance by foreign officials and other foreign persons, including through a new anti-corruption action fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2019

Mr. CARDIN (for himself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote international efforts in combating corruption, kleptocracy, and illicit finance by foreign officials and other foreign persons, including through a new anti-corruption action fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) Short Titles.—This Act may be cited as the “Countering Russian and Other Overseas Kleptocracy Act” or the “CROOK Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:
SEC. 2. FINDINGS.

Congress finds the following:

(1) Authoritarian leaders in foreign countries abuse their power to steal assets from state institutions, enrich themselves at the expense of their countries’ economic development, and use corruption as a strategic tool both to solidify their grip on power and to undermine democratic institutions abroad.

(2) Global corruption harms the competitiveness of United States businesses, feeds terrorist recruitment and transnational organized crime, enables drug smuggling and human trafficking, and stymies economic growth.

(3) Illicit financial flows often inconspicuously penetrate a country through what appears to be legitimate financial transactions, as kleptocrats launder money, use shell companies, amass offshore wealth, and participate in a global shadow economy.

(4) The government of Vladimir Putin in Russia is the leading model of this type of foreign kleptocratic system, using corruption to erode demo-
cratic governance from within and discrediting democracy abroad, thereby strengthening his authoritarian rule.

(5) Russia uses stolen money—

(A) to purchase key assets in other countries, particularly with a goal of attaining monopolistic control of a sector;

(B) to gain access to and influence the policies of democratic countries; and

(C) to directly fund political parties and organizations that advance Russian interests in other countries, particularly those that undermine confidence and trust in democratic systems.

(6) Thwarting these tactics by Russia and other kleptocratic governments requires the international community to strengthen democratic governance, the rule of law, and international cooperation in combating illicit finance, especially by empowering reformers in foreign countries during historic political openings for the establishment of the rule of law in those countries.

(7) New reformers in foreign countries must act quickly to seize political openings for anti-corruption reform. Since such reformers are often outsiders
with little government experience, they may need significant technical assistance to root out deep-seated corruption.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(C) the Committee on Finance of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on Financial Services of the House of Representatives; and

(F) the Committee on Ways and Means of the House of Representatives.

(2) FOREIGN ASSISTANCE.—The term “foreign assistance” means foreign assistance authorized under the Foreign Assistance Act of 1961 (22 U.S.C. 2251 et seq.).
(3) FOREIGN STATE.—The term “foreign state” has the meaning given such term in section 1603(a) of title 28, United States Code.

(4) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(5) PUBLIC CORRUPTION.—The term “public corruption” means the unlawful exercise of entrusted public power for private gain, including by bribery, nepotism, fraud, or embezzlement.

(6) RULE OF LAW.—The term “rule of law” means the principle of governance in which all persons, institutions, and entities, whether public or private, including the state, are accountable to laws that are—

(A) publicly promulgated;

(B) equally enforced;

(C) independently adjudicated; and

(D) consistent with international human rights norms and standards.
SEC. 4. SENSE OF CONGRESS REGARDING INTERNATIONAL STANDARDS.

It is the sense of Congress that the foundation for foreign states to fight corruption, kleptocracy, and illicit finance includes—

(1) the United Nations Convention against Corruption, done at New York October 31, 2003;

(2) recommendations of the Financial Action Task Force comprising the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation;

(3)(A) the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organisation for Economic Co-operation and Development, done at Paris December 17, 1997 (commonly referred to as the “Anti-Bribery Convention”);

(B) the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, adopted November 26, 2009;

(C) the Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials, adopted on April 11, 1996; and

(D) other related instruments;
(4) legal instruments adopted by the Council of Europe and monitored by the Group of States against Corruption, including—

(A) the Criminal Law Convention on Corruption, done at Strasbourg January 27, 1999;

(B) the Civil Law Convention on Corruption, done at Strasbourg, November 4, 1999;

(C) the Additional Protocol to the Criminal Law Convention on Corruption, done at Strasbourg May 15, 2003;

(D) the Twenty Guiding Principles for the Fight against Corruption, done at Strasbourg November 6, 1997;

(E) the Recommendation on Codes of Conduct for Public Officials, done at Strasbourg May 11, 2000; and

(F) the Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, done at Strasbourg April 8, 2003;

(5) Second Dimension commitments of the Organization for Security and Cooperation in Europe regarding good governance, anti-corruption, anti-money laundering, and related issues; and
(6) the Inter-American Convention Against Cor-
ruption of the Organization of American States,
done at Caracas March 29, 1996.

SEC. 5. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to leverage United States diplomatic en-
gagement and foreign assistance to promote the rule
of law;

(2)(A) to promote the international standards
referred to in section 4 and other relevant inter-
national standards and best practices, as such stand-
ards and practices develop; and

(B) to seek the universal adoption and imple-
mentation of such standards and practices by for-

eign states;

(3) to support foreign states in promoting good
governance and combating public corruption;

(4) to encourage and assist foreign partner
countries to identify and close loopholes in their
legal and financial architecture, including the misuse
of anonymous shell companies, free trade zones, and
other legal structures, that are enabling illicit fi-
nance and authoritarian capital to penetrate their fi-
nancial systems;
(5) to help foreign partner countries to investigate and combat the use of corruption by authoritarian governments, particularly the government of Vladimir Putin in Russia, as a tool of malign influence worldwide;

(6) to assist in the recovery of kleptocracy-related stolen assets for victims, including through the use of appropriate bilateral arrangements and international agreements, such as the United Nations Convention against Corruption, done at New York October 31, 2003;

(7) to use sanctions authorities, such as the Global Magnitsky Human Rights Accountability Act (subtitle F of title XII of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 22 U.S.C. 2656 note)), to identify and take action against corrupt foreign actors;

(8) to ensure coordination between departments and agencies of the United States Government with jurisdiction over the advancement of good governance in foreign states; and

(9) to lead the creation of a formal grouping of like-minded states—

(A) to coordinate efforts to counter corruption, kleptocracy, and illicit finance; and
(B) to strengthen collective financial defense.

SEC. 6. ANTI-CORRUPTION ACTION FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a trust fund, to be known as the “Anti-Corruption Action Fund”, for the purpose of aiding foreign states—

(1) to prevent and fight public corruption;

(2) to develop rule of law-based governance structures, including accountable investigation, prosecutorial, and judicial bodies; and

(3) to supplement existing foreign assistance and diplomacy with respect to efforts described in paragraphs (1) and (2).

(b) FUNDING.—

(1) TRANSFERS.—Beginning on or after the date of the enactment of this Act, if total criminal fines and penalties in excess of $50,000,000 are imposed against a person under the Foreign Corrupt Practices Act of 1977 (Public Law 95–213) or section 13, 30A, or 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78dd–1, and 78ff), whether pursuant to a criminal prosecution, enforcement proceeding, deferred prosecution agreement, non-prosecution agreement, a declination to prosecute or
enforce, or any other resolution, the court (in the
case of a conviction) or the Attorney General shall
impose an additional prevention payment equal to
$5,000,000 against such person, which shall be de-
posited in the Anti-Corruption Action Fund estab-
lished under subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts depos-
ited into the Anti-Corruption Action Fund pursuant
to paragraph (1) shall be available to the Secretary
of State, without fiscal year limitation or need for
subsequent appropriation, for the purposes set forth
in this section.

(c) SUPPORT.—The Anti-Corruption Action Fund—

(1) may support governmental and nongovern-
mental parties in advancing the purposes described
in subsection (a); and

(2) shall be allocated in a manner complemen-
tary to existing United States foreign assistance, di-
plomacy, and the anti-corruption activities of other
international donors.

(d) PREFERENCE.—In deciding how funding from
the Anti-Corruption Action Fund will be allocated, the
Secretary of State shall give preference to projects that—
(1) assist countries that are undergoing historic opportunities for democratic transition, combating corruption, and the establishment of the rule of law;

(2) are important to United States national interests; and

(3) could significantly increase the chance of a successful transition described in paragraph (1).

(e) PUBLIC DIPLOMACY.—The Secretary of State shall announce that funds deposited in the Anti-Corruption Action Fund are derived from actions brought under the Foreign Corrupt Practices Act to demonstrate that the use of such funds are—

(1) contributing to international anti-corruption work; and

(2) reducing the pressure that United States businesses face to pay bribes overseas, thereby contributing to greater competitiveness of United States companies.

SEC. 7. INTERAGENCY TASK FORCE.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Interagency Task Force established pursuant to subsection (b), shall manage a whole-of-government effort to improve coordination among Federal departments and agencies and donor organizations with a role in—
(1) promoting good governance in foreign states; and

(2) enhancing the ability of foreign states to combat public corruption.

(b) INTERAGENCY TASK FORCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall establish and convene an Interagency Task Force composed of—

(1) representatives appointed by the President from appropriate departments and agencies, including the Department of State, the United States Agency for International Development, the Department of Justice, the Department of the Treasury, the Department of Homeland Security, the Department of Defense, the Department of Commerce, the Millennium Challenge Corporation, and the intelligence community; and

(2) representatives appointed by the Secretary of State from any Federal department or agency not referred to in paragraph (1).

(c) ADDITIONAL MEETINGS.—The Interagency Task Force established pursuant to subsection (b) shall meet not less frequently than twice per year.

(d) DUTIES.—The Interagency Task Force established pursuant to subsection (b) shall—
(1) evaluate, on a general basis, the effectiveness of existing foreign assistance programs, including programs funded by the Anti-Corruption Action Fund, that have an impact on—

(A) promoting good governance in foreign states; and

(B) enhancing the ability of foreign states to combat public corruption;

(2) assist the Secretary of State in managing the whole-of-government effort described in subsection (a);

(3) identify general areas in which such whole-of-government effort could be enhanced; and

(4) recommend specific programs for foreign states that may be used to enhance such whole-of-government effort.

SEC. 8. DESIGNATION OF EMBASSY ANTI-CORRUPTION POINTS OF CONTACT.

(a) Embassy Anti-Corruption Point of Contact.—The chief of mission of each United States embassy shall designate an anti-corruption point of contact for each such embassy.

(b) Duties.—The designated anti-corruption points of contact designated pursuant to subsection (a) shall—
(1) coordinate, in accordance with guidance from the Interagency Task Force established pursuant to section 7(b), an interagency approach within United States embassies to combat public corruption in the foreign states in which such embassies are located that is tailored to the needs of such foreign states, including all relevant Federal departments and agencies with a presence in such foreign states, such as the Department of State, the United States Agency for International Development, the Department of Justice, the Department of the Treasury, the Department of Homeland Security, the Department of Defense, the Millennium Challenge Corporation, and the intelligence community;

(2) make recommendations regarding the use of the Anti-Corruption Action Fund and other foreign assistance funding related to anti-corruption efforts in their respective foreign states that aligns with United States diplomatic engagement; and

(3) ensure that anti-corruption activities carried out within their respective foreign states are included in regular reporting to the Secretary of State and the Interagency Task Force, including United States embassy strategic planning documents and foreign assistance-related reporting, as appropriate.
(c) Training.—The Secretary of State shall develop and implement appropriate training for the designated anti-corruption points of contact.

SEC. 9. REPORTING REQUIREMENTS.

(a) Report on Promoting International Standards in Combating Corruption, Kleptocracy, and Illicit Finance.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development and the Secretary of the Treasury, shall submit a report to the appropriate congressional committees that—

(1) summarizes any progress made by foreign states to adopt and implement each of the international standards in combating corruption, kleptocracy, and illicit finance referred to in section 4;

(2) details the efforts of the United States Government to promote such international standards; and

(3) identifies priority countries for outreach regarding such international standards; and

(4) outlines a plan to encourage the adoption and implementation of such international standards, including specific steps to take with the priority countries identified pursuant to paragraph (3).
(b) Report or Briefing on Progress Toward Implementation.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the following 3 years, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit a report or provide a briefing to the appropriate congressional committees that summarizes progress made in implementing this Act, including—

(1) describing—

(A) the bureaucratic structure of the offices within the Department of State and the United States Agency for International Development that are engaged in activities to combat corruption, kleptocracy, and illicit finance; and

(B) how such offices coordinate their efforts;

(2) identifying—

(A) the amount of funds that have been deposited into the Anti-Corruption Action Fund; and

(B) the obligation, expenditure, and impact of such funds;

(3) describing the activities of the Interagency Task Force established pursuant to section 7(b);
(4) identifying—

(A) the designated anti-corruption points
of contact for foreign states; and

(B) any training provided to such points of
contact; and

(5) recommending additional resources or per-
sonnel that would enhance the ability of the Sec-
retary to combat corruption, kleptocracy, and illicit
finance overseas.

(c) ONLINE PLATFORM.—The Secretary of State, in
conjunction with the Administrator of the United States
Agency for International Development, shall consolidate
existing reports and briefings with anti-corruption compo-
nents into a single online, public platform, that includes—

(1) the Annual Country Reports on Human
Rights Practices required under section 116 of the
Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

(2) the Fiscal Transparency Report required
under section 7031(b) of the Department of State,
Foreign Operations and Related Programs Appro-
priations Act, 2019 (division F of Public Law 116–
6);

(3) the Investment Climate Statement reports;

(4) the International Narcotics Control Strat-
egy Report;
(5) any other relevant public reports; and

(6) links to third-party indicators and compliance mechanisms used by the United States Government to inform policy and programming, such as—

(A) the International Finance Corporation’s Doing Business surveys;

(B) the International Budget Partnership’s Open Budget Index; and

(C) multilateral peer review anti-corruption compliance mechanisms, such as—

(i) the Organisation for Economic Co-operation and Development’s Working Group on Bribery in International Business Transactions;

(ii) the Follow-Up Mechanism for the Inter-American Convention Against Corruption; and