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

FEBRUARY 2, 2021

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:

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

2 SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

3 (a) Short Titles.—This Act may be cited as the

4 “Countering Russian and Other Overseas Kleptocracy

5 Act” or the “CROOK Act”.

6 (b) Table of Contents.—The table of contents for

7 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, weakens democratic governance, feeds terrorist recruitment and transnational organized crime, enables drug smuggling and human trafficking, and stymies economic growth.

(3) Illicit financial flows often penetrate countries through what appear 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 the Russian Federation is a leading model of this type of kleptocratic sys-
tem, using state-sanctioned corruption to both erode
democratic governance from within and discredit de-
mocracy abroad, thereby strengthening the authori-
tarian rule of Vladimir Putin.

(5) Corrupt individuals and entities in the Rus-
sian Federation, often with the backing and encour-
agement of political leadership, use stolen money—

(A) to purchase key assets in other coun-
dies, often with a goal of attaining monopolistic
control of a sector;

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

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

(6) Systemic corruption in the People’s Repub-
lic of China, often tied to, directed by, or backed by
the leadership of the Chinese Communist Party and
the Chinese Government is used—

(A) to provide unfair advantage to certain
People’s Republic of China economic entities;

(B) to increase other countries’ economic
dependence on the People’s Republic of China
to secure greater deference to the People’s Re-
public of China’s diplomatic and strategic goals;
and
(C) to exploit corruption in foreign governments and among other political elites to enable People’s Republic of China state-backed firms to pursue predatory and exploitative economic practices.

(7) Thwarting these tactics by Russian, Chinese, and other kleptocratic actors requires the international community to strengthen democratic governance and the rule of law. International cooperation in combating corruption and illicit finance is vital to such efforts, especially by empowering reformers in foreign countries during historic political openings for the establishment of the rule of law in those countries.

(8) Technical assistance programs that combat corruption and strengthen the rule of law, including through assistance provided by the Department of State’s Bureau of International Narcotics and Law Enforcement Affairs and the United States Agency for International Development, and through programs like the Department of Justice’s Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigat-
tive Training Assistance Program, can have lasting
and significant impacts for both foreign and United
States interests.

(9) There currently exist numerous inter-
national instruments to combat corruption,
kleptocracy, and illicit finance, including—

(A) the Inter-American Convention against
Corruption of the Organization of American
States, done at Caracas March 29, 1996;

(B) the Convention on Combating Bribery
of Foreign Public Officials in International
Business Transactions of the Organisation of
Economic Co-operation and Development, done
at Paris December 21, 1997 (commonly re-
ferred to as the “Anti-Bribery Convention”);

(C) the United Nations Convention against
Transnational Organized Crime, done at New
York November 15, 2000;

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

(E) Recommendation of the Council for
Further Combating Bribery of Foreign Public
Officials in International Business Trans-
actions, adopted November 26, 2009; and
(F) recommendations of the Financial Action Task Force comprising the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation.

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 the Judiciary of the Senate;

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

(F) the Committee on Financial Services of the House of Representatives;

(G) the Committee on Ways and Means of the House of Representatives; and
(H) the Committee on the Judiciary 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” includes the unlawful exercise of entrusted public power for private gain, such as through bribery, nepotism, fraud, extortion, 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
described norms and standards.

SEC. 4. 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 international instruments to
combat corruption, kleptocracy, and illicit finance,
including instruments referred to in section 2(9),
and other relevant international standards and best
practices, as such standards and practices develop;
and

(B) to promote the adoption and implementa-
tion of such laws, 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 to penetrate their financial systems;
(5) to help foreign partner countries to investigate, prosecute, adjudicate, and more generally combat the use of corruption by malign actors, including authoritarian governments, particularly the Government of the Russian Federation and the Government of the People’s Republic of China, 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, and the United Nations Convention against Transnational Organized Crime, done at New York November 15, 2000;

(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)) and section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (division G of Public Law 116–94), to identify and take action against corrupt foreign actors;
(8) to ensure coordination between relevant Federal departments and agencies 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. 5. ANTI-CORRUPTION ACTION FUND.

(a) Establishment.—There is established in the United States Treasury a fund, to be known as the “Anti-Corruption Action Fund”, only for the purposes of—

(1) strengthening the capacity of foreign states to prevent and fight public corruption;

(2) assisting foreign states to develop rule of law-based governance structures, including accountable civilian police, prosecutorial, and judicial institutions;

(3) supporting foreign states to strengthen domestic legal and regulatory frameworks to combat public corruption, including the adoption of best practices under international law; and
(4) supplementing existing foreign assistance and diplomacy with respect to efforts described in paragraphs (1), (2), and (3).

(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 deposited in the Anti-Corruption Action Fund established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts deposited into the Anti-Corruption Action Fund pursuant to paragraph (1) shall be available to the Secretary of State only for the purposes described in sub-
section (a), without fiscal year limitation or need for subsequent appropriation.

(3) LIMITATION.—None of the amounts made available to the Secretary of State from the Anti-Corruption Action Fund may be used inside the United States, except for administrative costs related to overseas program implementation pursuant to subsection (a).

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

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

(2) shall be allocated in a manner complementary to existing United States foreign assistance, diplomacy, and anti-corruption activities.

(d) ALLOCATION AND PRIORITIZATION.—In programming foreign assistance made available through the Anti-Corruption Action Fund, the Secretary of State, in coordination with the Attorney General, shall prioritize projects that—

(1) assist countries that are undergoing historic opportunities for democratic transition, combating corruption, and the establishment of the rule of law; and
(2) are important to United States national interests.

(e) TECHNICAL ASSISTANCE PROVIDERS.—For any technical assistance to a foreign governmental party under this section, the Secretary of State, in coordination with the Attorney General, shall prioritize United States Government technical assistance providers as implementers, in particular the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training Assistance Program at the Department of Justice.

(f) 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.

(g) REPORTING.—Not later than 1 year after the date of the enactment of this Act and not less frequently than annually thereafter, the Secretary of State shall sub-
mit a report to the appropriate congressional committees that contains—

(1) the balance of the funding remaining in the Anti-Corruption Action Fund;

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

(3) a summary of the obligation and expenditure of such funds.

(h) Notification Requirements.—None of the amounts made available to the Secretary of State from the Anti-Corruption Action Fund pursuant to this section shall be available for obligation, or for transfer to other departments, agencies, or entities, unless the Secretary of State notifies the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives, not later than 15 days in advance of such obligation or transfer.

SEC. 6. INTERAGENCY ANTI-CORRUPTION TASK FORCE.

(a) In General.—The Secretary of State, in cooperation with the Interagency Anti-Corruption 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 ANTI-CORRUPTION TASK FORCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall establish and convene the Interagency Anti-Corruption Task Force (referred to in this section as the “Task Force”), which shall be composed of 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.

(c) ADDITIONAL MEETINGS.—The Task Force shall meet not less frequently than twice per year.

(d) DUTIES.—The Task Force shall—

(1) evaluate, on a general basis, the effectiveness of existing foreign assistance programs, includ-
ing 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.

(e) BRIEFING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act and not less frequently than annually thereafter through the end of fiscal year 2026, the Secretary of State shall provide a briefing to the appropriate congressional committees regarding the ongoing work of the Task Force. The briefing shall include the participation of a representative of each of the departments and agencies described in subsection (b), to the extent feasible.
SEC. 7. 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 Anti-Corruption Task Force established pursuant to section 6(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 countries of responsibility that
aligns with United States diplomatic engagement;
and

(3) ensure that anti-corruption activities carried
out within their respective countries of responsibility
are included in regular reporting to the Secretary of
State and the Interagency Anti-Corruption 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. 8. REPORTING REQUIREMENTS.

(a) REPORT OR BRIEFING ON PROGRESS TOWARD
IMPLEMENTATION.—Not later than 180 days after the
date of the enactment of this Act, and annually thereafter
for the following 3 years, the Secretary of State, in con-
sultation with the Administrator of the United States
Agency for International Development, the Attorney Gen-
eral, and the Secretary of the Treasury, shall submit a
report or provide a briefing to the appropriate congres-
sional committees that summarizes progress made in com-
bating public corruption and in implementing this Act, in-
cluding—
(1) identifying opportunities and priorities for outreach with respect to promoting the adoption and implementation of relevant international law and standards in combating public corruption, kleptocracy, and illicit finance;

(2) 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 public corruption, kleptocracy, and illicit finance; and

(B) how such offices coordinate their efforts with each other and with other relevant Federal departments and agencies;

(3) providing a description of how the provisions under subsections (d) and (e) of section 5 have been applied to each project funded by the Anti-Corruption Action Fund;

(4) providing an explanation as to why a United States Government technical assistance provider was not used if technical assistance to a foreign governmental entity is not implemented by a United States Government technical assistance provider;
(5) describing the activities of the Interagency Anti-Corruption Task Force established pursuant to section 6(b);

(6) identifying—

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

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

(7) recommending additional measures that would enhance the ability of the United States Government to combat public corruption, kleptocracy, and illicit finance overseas.

(b) ONLINE PLATFORM.—The Secretary of State, in conjunction with the Administrator of the United States Agency for International Development, should consolidate existing reports with anti-corruption components 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 Appropriations Act, 2019 (division F of Public Law 116–6);
(3) the Investment Climate Statement reports;
(4) the International Narcotics Control Strategy 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, as appropriate, 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