

The DISCLOSE Act of 2017

The Supreme Court's *Citizens United* decision, which opened the floodgates to unlimited corporate spending in elections, was premised in part on the assumption that there would be a regime of "effective disclosure" that would "provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters." However, following *Citizens United*, the regime of "effective disclosure" is non-existent, with billionaires and anonymous corporations spending unlimited secret money in elections. Worse yet, Russia's campaign to influence the 2016 election exposed just how vulnerable our election process is to foreign meddling. Our lack of disclosure laws creates a huge loophole for Russia and other foreign governments to launder money into our elections in secret. The DISCLOSE Act includes commonsense measures designed block foreign money from entering our elections and increase disclosure rules for outside groups so voters know who is behind their spending.

New Foreign Money Provisions:

Under current law, foreign nationals and foreign corporations are prohibited from engaging in any election spending, including making donations and independent expenditures. However, domestic companies with significant foreign ownership are not subject to the same restrictions.

- The Act prohibits domestic corporations with significant foreign control, ownership, or direction from spending money in elections. The Act allows US subsidiaries of foreign corporations to continue to have employee PACs as long as no foreign nationals have decision making authority or control of the PAC.
- The Act cracks down on shell companies, which can be used to launder foreign money into elections, by requiring companies spending money in elections to disclose the true owner of the company, so election officials and the public know who is behind the company.
- The Act directs the FEC and the Financial Crimes Enforcement Network of the Department of the Treasury to share information to identify and prevent foreign election spending.

Disclosure Provisions:

As in previous versions, the DISCLOSE Act of 2017 would require organizations spending money in elections – including super PACS and tax-exempt 501(c)(4) groups – to promptly disclose donors who have given \$10,000 or more during an election cycle. The bill includes robust transfer provisions to prevent political operatives from using complex webs of entities to game the system and hide donor identities.

- The Act requires any covered organization that spends \$10,000 or more on election ads to file a disclosure report with the FEC within 24 hours, and to file a new report for each additional \$10,000 or more that is spent.
 - The disclosure report must include the sources of all donations of \$10,000 or more that the organization received during that election cycle.
 - A "covered organization" includes any corporation, labor organization, section 501(c) or 527 organization, or super PAC, but not a party or candidate committee. Section 501(c)(3) charitable organizations, which are prohibited by their tax status from spending money to influence elections, are excluded.
- The Act also requires disclosure of transfers to other organizations that are made for the purposes of campaign-related expenditures. This provision prevents organizations from evading disclosure requirements by laundering money through multiple organizations.
- The bill includes two important provisions to protect non-political donations from disclosure:
 - Segregated accounts: If the organization makes campaign-related disbursements exclusively using funds in a segregated bank account, the organization does not have to disclose any donations that were not deposited into the segregated account.
 - Restricted donations: A donor may prohibit the organization from using a donation for political purposes, in which case that donation does not need to be disclosed.