

# WHY ISN'T JIM COMEY CRUSADING AGAINST THIS TOOL USED TO HIDE TERRORIST SECRETS?

Several times over the course of Jim Comey's crusade against strong encryption, I have noted that, if Comey wants to eliminate the tools "bad guys" use to commit crimes, you might as well eliminate the corporation. After all, the corporate structure helped a bunch of banksters do trillions of dollars of damage to the US economy and effectively steal the homes from millions with near-impunity.

It'd be crazy to eliminate the corporation because it's a tool "bad guys" sometimes use, but that's the kind of crazy we see in the encryption debate.

Yesterday, Ron Wyden pointed to a more narrow example of the way "bad guys" abuse corporate structures to – among other things – commit terrorism: the shell corporation.

In a letter to Treasury Secretary Jack Lew, he laid out several cases where American shell companies had been used to launder money for crime – including terrorism, broadly defined.

One issue I am particularly concerned with is beneficial ownership. There have been numerous examples of anonymous U.S. shell companies used as vehicles for terrorist financing and other crimes. When Viktor Bout, "the merchant of death," was convicted of conspiring to sell millions of dollars' worth of weapons to the FARC, an OFAC-designated terrorist organization, he controlled a vast network of shell corporations, several of which were in the United States, including one suspected of having provided weapons to the Taliban.<sup>1</sup> In another case, an anonymous U.S. company called the Assa Corporation owned a large share of a Manhattan skyscraper. In 2007, Assa wire transferred about \$4.5 million in rental payments to Bank Melli, an Iranian bank that was designated by OFAC as a key financier to Iran's nuclear and ballistic missiles program.<sup>2</sup>

He then asked for answers about several issues. Summarizing:

- The White House IRS - registration for beneficial information on corporations

probably won't work. Does Treasury have a better plan? Would the Senate and House proposals to have states or Treasury create such a registry provide the ability to track who really owns a corporation?

- FinCen has proposed a rule that would not only be easily evaded, but might weaken the existing FATCA standard. Has anyone review this?
- Does FinCen actually think its rule would identify the natural person behind shell companies?
- Would requiring financial institutions to report balances held by foreigners help information sharing?

They're good questions but point, generally, to something more telling. We're not doing what we need to to prevent our own financial system from being used as a tool for terrorism. Unlike encryption, shell companies don't have many real benefits to society. Worse, it sounds like Treasury is making the problem worse, not better.

Of course, the really powerful crooks have reasons to want to retain the status quo. And so FBI Director Jim Comey has launched no crusade about this much more obvious tool of crime.