



**FACTSHEET**

# Ending Foreign-Influenced Corporate Spending in U.S. Elections

By Michael Sozan

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U.S.-based corporations with appreciable levels of foreign ownership must be prevented from spending money from their corporate treasuries to sway U.S. elections. As discussed in a new Center for American Progress report,<sup>1</sup> a U.S. corporation is “foreign influenced” and should be prohibited from election-related spending if it meets one of the following criteria:

1. A single foreign shareholder owns or controls 1 percent or more of the corporation’s equity
2. Multiple foreign shareholders own or control—in the aggregate—5 percent or more of the corporation’s equity
3. Any foreign entity participates in the corporation’s decision-making process about election-related spending in the United States

## Facts

- Federal law—and judicial decisions interpreting that law—make clear that foreigners are barred from spending money to influence U.S. elections.<sup>2</sup> This is true whether foreigners attempt to influence U.S. elections in their personal capacity or through a corporation.
- Foreign investors own increasing shares of U.S. corporate stock, growing from only 5 percent in 1982 to approximately 35 percent in 2017.<sup>3</sup>
- The United States’ largest corporations are spending hundreds of millions of dollars directly from their corporate treasuries to influence elections—not counting their separate corporate political action committees. Much of this spending is through dark money channels that opened after the U.S. Supreme Court’s misguided 2010 decision in *Citizens United v. Federal Election Commission*.<sup>4</sup>
- Many foreign-influenced U.S. corporations are wholly owned subsidiaries of foreign corporations, such as BP and Shell Oil. Other U.S. corporations are partially foreign-owned. For example, approximately 10 percent of U.S.-based Uber is owned by Saudi Arabia.<sup>5</sup> Uber has spent tens of millions of dollars in recent years to influence elections and ballot measures that would help the company’s bottom line.<sup>6</sup>
- Foreign interests can easily diverge from U.S. interests, for example, in the areas of tax, trade, investment, and labor law. Corporate directors and managers view themselves as accountable to their shareholders, including foreign shareholders.

As the former CEO of U.S.-based Exxon Mobil Corp. starkly stated, “I’m not a U.S. company and I don’t make decisions based on what’s good for the U.S.”<sup>7</sup>

- CAP’s proposed foreign ownership thresholds would prevent foreign-influenced U.S. corporations from spending money to shape the outcomes of elections or ballot measures. Of 111 corporations studied among the S&P 500 stock index, 74 percent exceeded the 1 percent threshold for a single foreign owner and 98 percent exceeded the 5 percent aggregate foreign ownership threshold. Among smaller publicly traded corporations, only 28 percent exceeded the 5 percent aggregate foreign ownership threshold.
- Corporate governance experts and regulators agree that these thresholds capture the level of ownership necessary to influence corporate decisions.<sup>8</sup> Even the conservative former chairman of the U.S. House Committee on Financial Services, Rep. Jeb Hensarling (R-TX), and the Business Roundtable concur that 1 percent is a threshold at which a single shareholder is able to influence corporate decisions.<sup>9</sup>

With billions of dollars in unaccountable dark money being spent in U.S. elections and voters demanding bold solutions to protect their voices in our democracy, lawmakers should take action to ensure that corporate CEOs who are accountable to their foreign investors are not influencing our elections.

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## Endnotes

- 1 Michael Sozan, “Ending Foreign-Influenced Corporate Spending in U.S. Elections” (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/?p=477466>.
- 2 Legal Information Institute, “52 U.S.C. § 30121(a),” available at <https://www.law.cornell.edu/uscode/text/52/30121>; *Bluman and Steiman v. Federal Election Commission*, memorandum opinion, U.S. District Court for the District of Columbia, No. 10-1766 (August 8, 2011), available at [https://www.bloomberglaw.com/public/desktop/document/Bluman\\_v\\_Federal\\_Election\\_Commission\\_Civil\\_No\\_101766\\_BMK\\_RMUR-MC\\_2?1565223708](https://www.bloomberglaw.com/public/desktop/document/Bluman_v_Federal_Election_Commission_Civil_No_101766_BMK_RMUR-MC_2?1565223708).
- 3 Steven M. Rosenthal and Lydia S. Austin, “The Dwindling Taxable Share Of U.S. Corporate Stock” (Washington: Tax Policy Center, 2016), p. 929, available at <https://www.taxpolicycenter.org/publications/dwindling-taxable-share-us-corporate-stock/full>; Steven M. Rosenthal, “Slashing Corporate Taxes: Foreign Investors Are Surprise Winners” (Washington: Tax Policy Center, 2017), available at <https://www.taxpolicycenter.org/publications/slashing-corporate-taxes-foreign-investors-are-surprise-winners/full>.
- 4 *Citizens United v. Federal Election Commission*, 558 U.S. 310 (January 21, 2010), available at <https://www.supremecourt.gov/opinions/09pdf/08-205.pdf>.
- 5 Eric Newcomer, “The Inside Story of How Uber Got Into Business With the Saudi Arabian Government,” Bloomberg, November 3, 2018, available at <https://www.bloomberg.com/news/articles/2018-11-03/the-inside-story-of-how-uber-got-into-business-with-the-saudi-arabian-government>.
- 6 Kate Conger, “Uber, Lyft and DoorDash Pledge \$90 Million to Fight Driver Legislation in California,” *The New York Times*, August 29, 2019, available at <https://www.nytimes.com/2019/08/29/technology/uber-lyft-ballot-initiative.html>; Laurence H. Tribe and Scott Greytak, “Get foreign political money out of US elections,” *The Boston Globe*, June 22, 2016, available at <https://www.bostonglobe.com/opinion/2016/06/22/get-foreign-political-money-out-elections/qEKLmpfA23Blwxw815RJML/story.html>.
- 7 Steve Coll, *Private Empire: ExxonMobil and American Power* (New York: Penguin Books, 2012), p. 71.
- 8 John C. Coates IV, Statement submitted to Massachusetts House of Representatives regarding an act to limit spending by foreign-influenced corporations, Harvard Law School, May 14, 2019, pp. 2–3, available at <https://freespeechforpeople.org/wp-content/uploads/2019/05/2019-Coates-MA-FIC-20190514-PDF-final.pdf>; Laurence H. Tribe, Statement in support of St. Petersburg, Florida legislation, October 25, 2016, p. 4, available at <https://freespeechforpeople.org/wp-content/uploads/2016/10/7.-Prof.-Laurence-Tribe-Letter-of-Support.pdf>.
- 9 House Committee on Financial Services, Transcript of Committee debate and markup of Financial CHOICE Act, H.R.10, 115th Cong., 1st sess., May 3, 2017, available at <https://plus.cq.com/doc/congressionaltranscripts-509644279>; N. Peter Rasmussen, “Responsible Shareholder Engagement & Long-Term Value Creation,” Bloomberg Law, November 2, 2016, previously available at <https://www.businessroundtable.org/archive/resources/responsible-shareholder-engagement-long-term-value-creation>.