



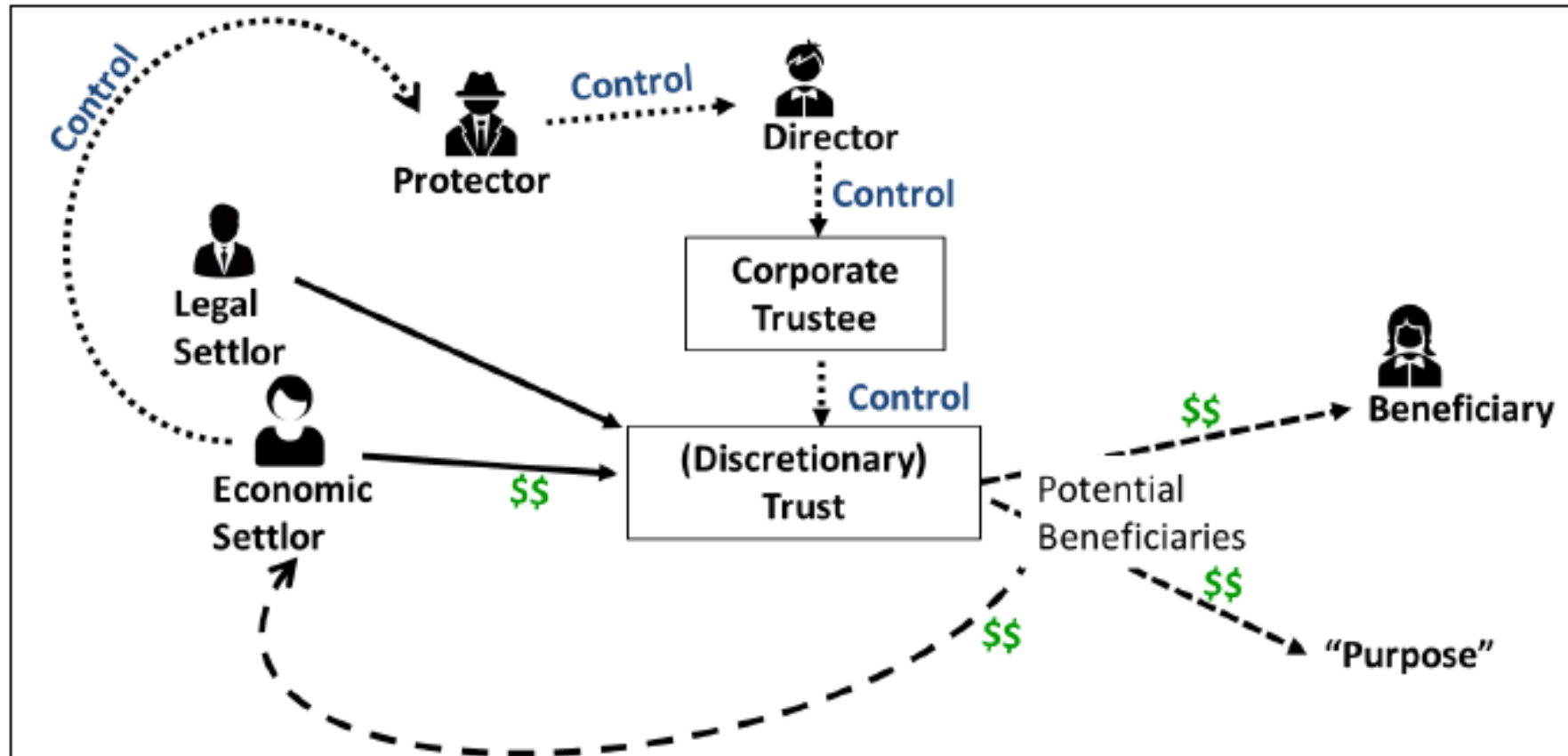
House Bill 405

LABOR & COMMERCE COMMITTEE
APRIL 15, 2022

HB 405: Establishment of trusts

- Updates Alaska law to ensure trusts in Alaska will not be used to shield assets of Russian oligarchs or other enemies of the United States
- Ensures state trust law is consistent with federal transparency requirements
- Provides clarity for industry as well as state & federal regulators

What is a trust?



History of Trusts in Alaska

- Prior to the Alaska State Constitution, trust law traces back to England in the Middle Ages
- **1959 – 1998:** trusts in Alaska operated as they do in the vast majority of states
- **1998:** Alaska became the second state in the country to enact super-trust laws
- **1998 – 2021:** Alaska initially captured national investment. However, other states joined South Dakota & Alaska -- including Nevada, Delaware, and Wyoming -- enacting new laws to expand the authority of trusts. Increased competition led to many of the largest accounts leaving the state
- In **October 2021**, a series of leaks revealed that Alaska & five other U.S. states have attracted vast sums of wealth and could be sheltering funds for the globe's most violent and corrupt criminals

Financial Secrecy Index

EXPLORE DIMENSION:

FSI VALUE

SECURITY SCORE

GLOBAL SCALE WEIGHT

Ranks the world's largest contributors to global financial secrecy.

HIGHLIGHT SELECTION:

TOP 10

UK+

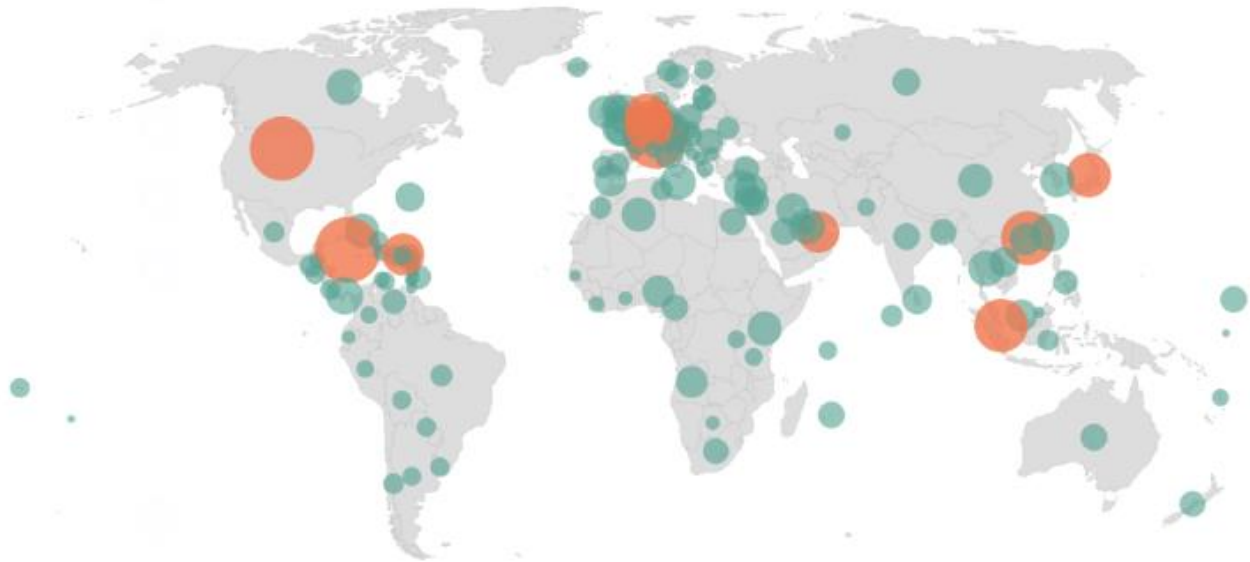
OECD

Highlights the ten most significant secrecy jurisdictions.

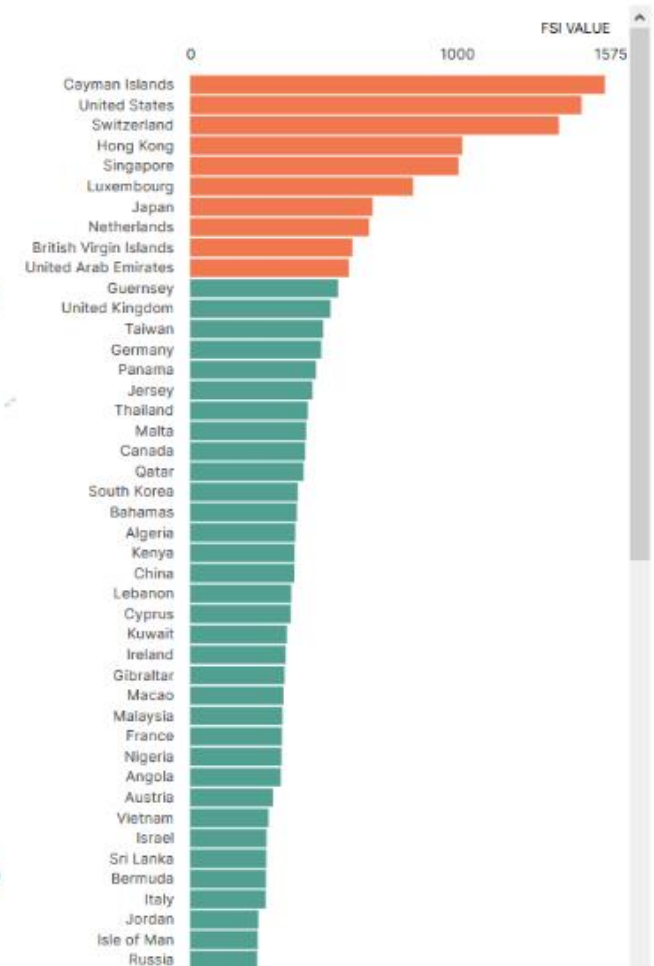
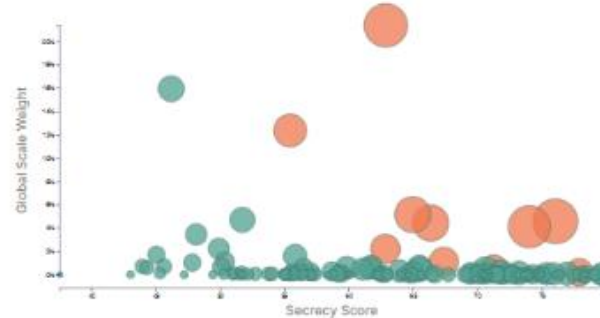
FSI REPORT YEAR:

2020

2018



The Financial Secrecy Index (FSI) is the world's most comprehensive assessment of the secrecy of financial centres and the impact of that secrecy on global financial flows.



Choosing the Correct Jurisdiction: *An Objective Comparison*

	South Dakota	Nevada	Wyoming	Alaska	Delaware
Dynasty Trusts	Yes <i>Ranked as #1 ^[1]</i>	Yes <i>Ranked as #2 ^[1]</i> <i>State constitution prohibits modification to RAP ^[2]</i>	Yes <i>Ranked as #5 ^[1]</i> <i>State constitution prohibits modification to RAP ^[2]</i>	Yes <i>Ranked as #4 ^[1]</i>	Yes <i>Ranked as #7 ^[1]</i>
State Income Taxation	No	No	No	No <i>Future uncertain</i>	No <i>Only for non-residents</i>
Community Property Trusts	Yes ^[3]	No	No	Yes <i>Future uncertain</i>	No
Domestic Asset Protection Statute	Yes ^[4] <i>2 year statute of limitations</i> <i>Exception for child support</i>	Yes ^[4] <i>2 year statute of limitations</i> <i>No exceptions for child and spousal support</i>	Yes ^[4] <i>4 year statute of limitations</i> <i>Exception for child support</i>	Yes ^[4] <i>4 year statute of limitations</i> <i>Exception for divorcing spouse</i>	Yes ^[4] <i>4 year statute of limitations</i> <i>Exceptions for child and spousal support</i>
Trust Protector	Yes	Yes	Yes	Yes	Yes
Directed Trusts	Yes	Yes	Yes	Yes	Yes
Decanting Statute	Yes <i>Ranked as #1 ^[5]</i>	Yes <i>Ranked as #2 ^[5]</i>	Yes <i>Ranked as #14 ^[5]</i>	Yes <i>Ranked as #9 ^[5]</i>	Yes <i>Ranked as #3 ^[5]</i>
Trust Privacy Provision	Yes - Total Privacy Seal Forever <i>Automatically attaches</i>	No Total Privacy Seal ^[2] <i>Subject to judge discretion</i>	No Total Privacy Seal ^[2] <i>Subject to judge discretion</i>	No Total Privacy Seal ^[2] <i>Subject to judge discretion</i>	Yes - Three Year Privacy Seal ^[2] <i>Subject to judge discretion</i>
Special Purpose Entity	Yes ^[2] <i>Codified by statute</i>	No	No	No	No
Family Advisor	Yes	No	No	No	No
State Fiscal Health	Ranked as #1 ^[6]	Ranked as #29 ^[6]	Ranked as #48 ^[6]	Ranked as #50 ^[6]	Ranked as #38 ^[6]

* Denotes superior distinction among jurisdictions.



^[1] Attorney Steve Oshins' "9th Annual Dynasty Trust State Rankings Chart"

^[2] Worthington, Daniel G.; Merric, Mark; Sullivan, John E.; and Thomas, Ryan "Which Situs is Best in 2020?" *Trusts & Estates* January 2020

^[3] South Dakota Special Spousal Trusts, House Bill 1039 (2016) (Sections 29-42)

^[4] Attorney Steve Oshins' "11th Annual Domestic Asset Protection Trust State Rankings Chart"

^[5] Attorney Steve Oshins' "8th Annual Trust Decanting State Rankings Chart"

^[6] Murphy, Mary; Iyengar, Akshay; and Zhang, Alexandria "Tax Revenue Volatility Varies Across States, Revenue Streams" *PEW* August 2018

Nation/World

Pandora Papers show foreign money secretly floods U.S. tax havens. Some of it is tainted.

By Debbie Cenziper, Will Fitzgibbon and Salwan Georges, The Washington Post

Updated: October 4, 2021

Published: October 4, 2021



The lobby of a building that houses Trident Trust Co. in Sioux Falls, South Dakota, on June 16, 2021. (Washington Post photo by Salwan Georges)

In 2016, Trident took on a new client: Federico Kong Vielman, a member of one of the most prominent families in Guatemala. Kong Vielman's trust held \$13.5 million in assets, generated in part from an inheritance and his family firm's sale of household products, the Pandora Papers documents show.

In 2014, two years before the trust was established, the U.S. government filed a complaint against Guatemala, alleging that the country had breached its free-trade agreement by failing to enforce labor laws. Among the cited examples: a palm oil company owned by the Kong Vielman family, where workers said they were paid about half the minimum wage and were required to handle chemicals without protective equipment.

In 2015, the U.S. Environmental Protection Agency named the company and two others in an investigation of toxic pollutants in the Pasión River, which winds through the country's northern lowlands and provides food and water to nearby communities.

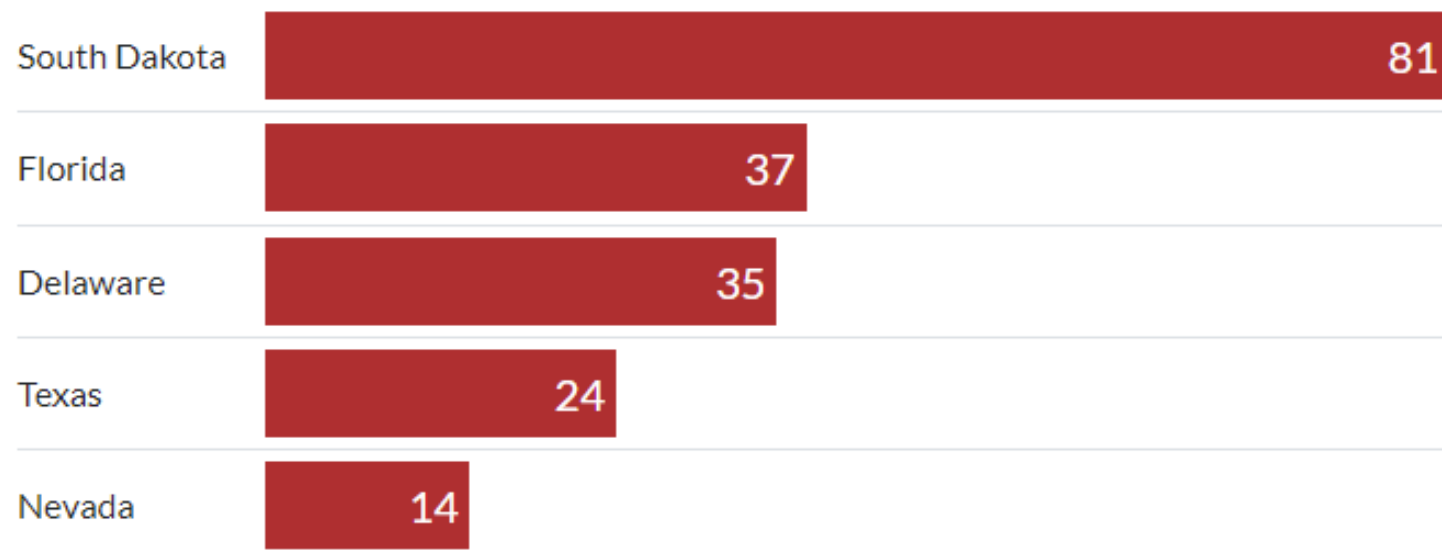
A Guatemalan court suspended the operations of another company after the incident but took no action against the company owned by the Kong Vielman family.

Global Reform Efforts

- Financial Action Task Force issued FATF Recommendations in **2012**
 - formed as an inter-governmental initiative of the G7 countries in **1989**
 - Now 39 global members, including the US
- European Union has issued 5 anti-money-laundering directives, most recently requiring public disclosure of 'beneficial ownership' information for trusts.
- **2018** – the Bahamas enacted reforms
- **2020** – 17 of the 20 least-restrictive jurisdictions for trusts are U.S. states
- **2021** – Corporate Transparency Act signed by President Biden into law
- **2022** – UK approved Economic Crime (Transparency & Enforcement) Act following the Russian invasion of Ukraine,

Which US states have the most trusts in the Pandora Papers?

The investigation shows how U.S. trusts have become a go-to vehicle for financial secrecy.



Source: Pandora Papers data

“The secrecy currently afforded by the U.S. and other Western legal and financial systems contributed to President Putin’s empowerment.”



The Nord Stream 2 pipeline would deliver Russian gas directly to Germany across the Baltic Sea © Stefan Sauer/dpa-Zentralbild/dpa

- IAN GARY, EXECUTIVE DIRECTOR FACT COALITION

QUESTIONS?



House Bill 406

LABOR & COMMERCE COMMITTEE
APRIL 15, 2022

HB 406: Moratorium on Trusts / Property Acquisition

- Updates Alaska law to ensure trusts held or managed by enemies of the United States can no longer operate in the state of Alaska
- Prohibits these individuals from acquiring real estate
- Protects Alaskans' access to services provided by trusts, such as estate planning, while ensuring foreign adversaries can not hide their wealth in Alaska

Office of Foreign Asset Control

- Since 1940, the U.S. Treasury Department has used economic power to freeze assets of enemies of the United States
- Expanded with the 2016 Global Magnitsky Act, the Office of Foreign Asset Control (OFAC) sanctions regimes target *individuals*, not *countries*
- Financial transactions with individuals on the sanctions list are prohibited for U.S. citizens
- In October 2021, the latest mega-leak of global financial information, the “Pandora Papers” revealed U.S. states like Alaska have trust laws so strong that they may effectively conceal assets of international criminals



Why do criminals like trusts?

“Trusts prove such a hurdle to investigation, prosecution (or civil judgment), and asset recovery that they are seldom prioritized in corruption investigations. Investigators and prosecutors tend not to bring charges against trusts, because of the difficulty in proving their role in the crime...”

– “*The Puppet Masters*” report by the World Bank, October 2011





Andres Knobel

Published:
31 March 2022

Reading time:
13 min

Category:
Financial secrecy ↘



On 22 March 2022, [the BBC](#) and [the Guardian](#) published a story about Alisher Usmanov, a Russian mining and telecoms oligarch, who is a former major shareholder of Arsenal football club and was once said to be the UK's richest person. He is now a subject of sanctions against key associates of Russian president Vladimir Putin. But there seems to be a problem with applying sanctions to him involving trusts. A spokesman for Usmanov told The Guardian:

“...most of the billionaire’s UK properties, as well as his yacht, had been ‘long ago transferred into irrevocable trusts’. He added: ‘From that point on, Mr Usmanov did not own them, nor was he able to manage them or deal with their sale, but could only use them on a rental basis. Mr Usmanov withdrew from the beneficiaries of the trusts, donating his beneficial rights to his family.’”

QUESTIONS?



House Bill 407

LABOR & COMMERCE COMMITTEE
APRIL 15, 2022

HB 407: Prohibit Commerce with Russia

- Prevents imports of Russian goods
- Prohibits Russian boats from docking at Alaskan ports



Rep. Don Young ✓
@repdonyoung

I just left a Transportation Committee markup. I'm proud that the part of my BOATS Act banning Russian vessels from US waters was ADOPTED BY THE COMMITTEE in the Coast Guard bill. I continue pushing the standalone BOATS Act to IMMEDIATELY seize Russian oligarch-owned yachts. 🇺🇦🇺🇸



Forbes ✓
@Forbes

Russian billionaire Alisher Usmanov's 512-foot yacht has been seized by German authorities in the northern city of Hamburg. trib.al/QrcDw35



12:04 PM · Mar 2, 2022 · SocialFlow

Congress Sends Legislation Suspending Normal Trade With Russia to Biden



April 7, 2022
Catie Edmondson



"No nation whose military is committing war crimes deserves free trade status with the United States," said Senator Chuck Schumer, Democrat of New York and the majority leader. Pete Marovich for The New York Times



Trident Seafoods employee Karolina Vankova tosses snow crab into a brailer aboard the fishing boat Pinnacle, docked at the Trident Seafoods plant on St. Paul Island, Alaska, on Saturday, Jan. 29, 2022. Each load is generally at least 1,000 pounds. (Loren Holmes / Anchorage Daily News)

QUESTIONS?
