



**Permanent Select Committee  
on Intelligence  
U.S. House of Representatives**

**MEMORANDUM**

To: HPSCI Members

From: Chairman Schiff

Date: August 25, 2020

Re: Update on the Committee's Investigation of Counterintelligence Risks Arising from President Trump's Foreign Financial Ties

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As you are aware, the House Permanent Select Committee on Intelligence (HPSCI or the Committee) is conducting an investigation of potential counterintelligence risks arising from leverage that foreign actors may possess over President Donald J. Trump as a result of his extensive foreign financial ties.<sup>1</sup> As recently reiterated by several senators in connection with the public release of Volume V of the Senate Select Committee on Intelligence's Report on Russia's interference in the 2016 election, a full counterintelligence investigation of the President's foreign financial interests remains urgent and outstanding.<sup>2</sup>

On July 9, 2020, the Supreme Court decided *Trump et al. v. Mazars USA, LLP et al.* ("*Trump v. Mazars*"), which arose from efforts by President Trump and his family to block Deutsche Bank's compliance with the Committee's duly authorized subpoena for Trump's

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<sup>1</sup> Executive Order No. 12333, as amended, defines counterintelligence as "information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or their agents, or international terrorist organizations or activities."

<sup>2</sup> See Senate Select Committee on Intelligence, *Report on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election*, Vol. V, at 946 (2020) ("SSCI Report, Vol. V") (Add'l Views of Sens. Heinrich, Feinstein, Wyden, Harris, and Bennet) ("[T]he Committee did not cover all areas of concern. For example, the Committee's investigation, for a variety of reasons, did not seek, and was not able to review, records regarding Donald Trump's finances and the numerous areas where those financial interests appear to have overlapped with Russia. In turn, the reader should not interpret the Report's absence of information on this topic to indicate that nothing of interest was found. Rather, it should be acknowledged that this was a potentially meaningful area that the Committee did not probe."); *id.* at 950-51 (Add'l Views of Sen. Wyden) ("From day one, I said that the Committee must follow the money - that is, scrutinize Donald Trump's extensive financial entanglements with foreign adversaries. Following the money is, after all, Counterintelligence 101. The way to compromise people is through money. . . . A thorough investigation into this threat would have required a review of Donald Trump's finances.").

personal and corporate financial records issued in April 2019.<sup>3</sup> Although the Supreme Court’s opinion reaffirmed the fundamental principle that Congress may subpoena a President’s personal information as part of its legitimate legislative and oversight functions, the Court remanded the case to the lower courts for further review under a new legal standard for such subpoenas.

This memorandum responds to Members’ questions regarding the effect of the Supreme Court’s decision on the Committee’s investigation. It discusses the application of the new four-factor test established by *Trump v. Mazars* to the Committee’s subpoena to Deutsche Bank. Although not required by the Supreme Court’s opinion, the Committee will voluntarily narrow its subpoena to those records that are absolutely necessary to satisfy the Committee’s investigative needs and to fulfill the Committee’s legitimate oversight and legislative objectives. Taking into account the evidence in the public record, this memorandum explains why the Committee’s subpoena, as amended, clearly satisfies the Court’s new legal test for evaluating Congress’s need for the President’s personal information. It also discusses potential oversight and legislation that will be informed by the Committee’s investigation and by the subpoenaed Deutsche Bank records.

## **1. Background on HPSCI’s Investigation**

Consistent with the public announcement following our organizational business meeting on February 6, 2019<sup>4</sup>, HPSCI has continued to investigate “efforts by Russia and other foreign actors to influence our political process before, during, and since the 2016 election” during the 116<sup>th</sup> Congress.<sup>5</sup> A “core component” of HPSCI’s investigation “is to understand how Russia and other foreign powers used financial leverage to further their geopolitical goals and whether and to what extent financial entanglements exist and may have been used to influence or compromise Americans, including President Trump, his family, and associates.”<sup>6</sup> The Committee is also analyzing “what the United States must do to protect itself from future interference and malign influence operations,” including malign efforts by foreign powers to influence the President and U.S. foreign policy by exploiting the President’s foreign financial interests.<sup>7</sup>

The purposes of HPSCI’s ongoing investigation are three-fold: (1) to identify and assess counterintelligence threats arising from President Trump’s foreign financial ties and any leverage that foreign powers may possess over the President as a result of such financial ties; (2) to inform and shape the Committee’s oversight of the Intelligence Community and the nation’s foreign intelligence and counterintelligence policies, authorities, and activities; and (3) to determine whether—and if so, how—to draft legislation and use other congressional tools, such as

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<sup>3</sup> *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019 (2020).

<sup>4</sup> Press Release, U.S. House of Representatives Permanent Select Comm. on Intelligence, Chairman Schiff Statement on House Intelligence Committee Investigation (Feb. 6, 2019), <https://perma.cc/RNA8-M8L8>.

<sup>5</sup> 165 Cong. Rec. H3481 (daily ed. May 8, 2019) (statement of Committee Chairman Adam Schiff).

<sup>6</sup> *Id.*

<sup>7</sup> Press Release, U.S. House of Representatives Permanent Select Comm. on Intelligence, Chairman Schiff Statement on House Intelligence Committee Investigation (Feb. 6, 2019), <https://perma.cc/RNA8-M8L8>.

congressional directives and the Committee’s budgetary authority, to address any counterintelligence threats arising from President Trump’s foreign financial ties. More specifically, the Committee’s investigation will inform its oversight of the nation’s foreign intelligence and counterintelligence authorities and activities to ensure that the government is properly resourced, authorized, and directed to identify and respond to these types of counterintelligence risks. The investigation will also inform the Committee’s consideration of potential legislation to address these threats, such as bills to direct the Intelligence Community to collect and report on specific threats; to authorize additional legal authorities or resources needed to address such threats; to withhold funding for any policies that may have been tainted by the President’s foreign financial conflicts or procured through foreign leverage; to enact legislative “countermeasures” to reverse damage to U.S. national security caused by any such tainted policy decisions; and to prevent future presidents from concealing particular types of financial information and financial conflicts from Congress and the American people that could be exploited by our foreign adversaries.

As the existing record shows, there is a substantial factual basis for the Committee’s investigation and subpoena to Deutsche Bank. During the 115<sup>th</sup> Congress, HPSCI’s investigation of Russian interference in the 2016 U.S. elections uncovered evidence of Trump’s extensive foreign financial ties, particularly to Russia.<sup>8</sup> For example, the Committee learned that since at least the late 1980s, Trump has pursued business opportunities in Russia, including several attempts to build a Trump Tower in Moscow in partnership with individuals tied to Russia—including an undisclosed effort during the 2016 election involving a U.S.-sanctioned Russian bank.<sup>9</sup> Furthermore, according to statements made by Donald Trump Jr. at the Moscow real estate summit in 2008, “Russians make up a pretty disproportionate cross-section of a lot of [the Trump Organization’s] assets” and Trump’s company had “a lot of money pouring in from Russia.”<sup>10</sup> Public reporting also suggested that Russian-linked investments in Trump properties could have been used as a vehicle for money laundering, which—if Trump and his company were aware of such illicit activity—could expose President Trump and his family to potential criminal liability as well as blackmail by the Russians.<sup>11</sup>

In or about 1998, Trump began a financial relationship with Deutsche Bank—which itself had engaged in illicit transactions on behalf of Russian clients for which it was fined approximately \$630 million by U.S. and U.K. regulators in January 2017—after Trump could not secure financing from other banks as a result of his previous failed business endeavors.<sup>12</sup> Since the late 1990s, President Trump and the Trump Organization have reportedly obtained hundreds of millions of dollars in loans, for which Trump had to provide Deutsche Bank access

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<sup>8</sup> See House Permanent Select Comm. on Intelligence Minority Members, *Minority Views to the Majority-Produced “Report on Russian Active Measures”* 49-51 (Mar. 26, 2018) (“HPSCI Minority Report”), [https://intelligence.house.gov/uploadedfiles/20180411 - final - hpsci minority views on majority report.pdf](https://intelligence.house.gov/uploadedfiles/20180411_-_final_-_hpsci_minority_views_on_majority_report.pdf).

<sup>9</sup> See *id.* at 49-50.

<sup>10</sup> *Id.* (quoting Donald Trump, Jr.); see also Michael Hirsh, *How Russian Money Helped Save Trump’s Business*, Foreign Policy (Dec. 21, 2018), <https://foreignpolicy.com/2018/12/21/how-russian-money-helped-save-trumps-business/>.

<sup>11</sup> HPSCI Minority Report at 50.

<sup>12</sup> See *id.* at 49.

to his personal and corporate financial information—access that President Trump has not provided to Congress or the American people.<sup>13</sup> The full extent of President Trump’s foreign financial ties and the extent to which foreign actors have sought—and may continue—to try to exert financial leverage over the President, could not accurately be assessed during the 115<sup>th</sup> Congress, however, because President Trump refused to publicly release his financial records and the Committee did not have access to the President’s records at Deutsche Bank.<sup>14</sup>

On February 6, 2019, the Committee announced the scope of HPSCI’s inquiry into foreign interference in the U.S. political process, including an investigation of the counterintelligence risks arising President Trump’s foreign financial ties, during the 116<sup>th</sup> Congress. HPSCI’s inquiry is consistent with the Committee’s foreign intelligence and counterintelligence oversight authorities and jurisdiction, including its independent authority to investigate counterintelligence threats to the nation. At the Committee’s initial business meeting, and subsequently in a public statement, I announced on behalf of the Committee that our investigation would examine, among other things, (1) “[t]he extent of any links and/or coordination between the Russian government, or related foreign actors, and individuals associated with Donald Trump’s campaign, transition, administration, or business interests, in furtherance of the Russian government’s interests”; (2) “[w]hether any foreign actor has sought to compromise or holds leverage, financial or otherwise, over Donald Trump, his family, his business, or his associates”; and (3) “[w]hether President Trump, his family, or his associates are or were at any time at heightened risk of, or vulnerable to, foreign exploitation, inducement, manipulation, pressure, or coercion, or have sought to influence U.S. government policy in service of foreign interests.”<sup>15</sup> From the outset, the Committee’s inquiry has not been limited to Russia, but extends to other foreign countries where President Trump reportedly has financial interests, such as China<sup>16</sup>, Saudi Arabia<sup>17</sup>, and Turkey.<sup>18</sup>

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<sup>13</sup> David Enrich, *The Money Behind Trump’s Money*, New York Times Magazine (Feb. 4, 2020), <https://www.nytimes.com/2020/02/04/magazine/deutsche-bank-trump.html>.

<sup>14</sup> See HPSCI Minority Report at 51 (“The question of whether Trump’s financial vulnerability, reliance on lenders of last resort with illicit ties to Russia, or decades-long desire to secure a real estate deal in Moscow led Russia to hold of leverage against him remains an unexplored but critical investigatory question.”).

<sup>15</sup> Press Release, U.S. House of Representatives Permanent Select Comm. on Intelligence, Chairman Schiff Statement on House Intelligence Committee Investigation (Feb. 6, 2019), <https://perma.cc/RNA8-M8L8>.

<sup>16</sup> See, e.g., Marc Caputo et al., *Trump Owed Tens of Millions to Bank of China*, Politico (Apr. 28, 2020), <https://www.politico.com/news/2020/04/24/trump-biden-china-debt-205475> (detailing Trump’s financial ties to China, including: a \$211 million loan in 2012 from the Bank of China for a New York building partially owned by the Trump Organization, which was later sold by the bank; two luxury Trump developments in United Arab Emirates and Indonesia being developed by Chinese state-owned companies; trademarks awarded by the Chinese government to Trump and Ivanka Trump during Trump’s presidency; and efforts by Jared Kushner to court a Chinese investor to bailout a New York skyscraper owned by his family business during the 2016 presidential campaign and after the election).

<sup>17</sup> See, e.g., *Trump and Saudi Arabia: Deep Business Ties Spark New Scrutiny*, CBS News (Oct. 15, 2018), <https://www.cbsnews.com/news/trump-and-saudi-arabia-deep-business-ties-spark-new-scrutiny> (detailing Trump’s financial ties to Saudi Arabia, including hundreds of thousands of dollars in hotel stays by Saudi government officials and lobbyists during Trump’s presidency).

<sup>18</sup> See, e.g., David Kirkpatrick & Eric Lipton, *Behind Trump’s Dealings With Turkey: Sons-in-Law Married to Power*, N.Y. Times (Nov. 12, 2019), <https://www.nytimes.com/2019/11/12/us/politics/trump-erdogan-family->

As part of its investigation of the counterintelligence risks arising from President Trump’s foreign financial ties, on March 28, 2019, HPSCI held a hearing entitled *Putin’s Playbook: The Kremlin’s Use of Oligarchs, Money and Intelligence in 2016 and Beyond*. The Committee heard testimony about Russia’s use of financial leverage to exert influence in the United States and other countries. Former U.S. Ambassador to Russia Michael McFaul testified, for example, that “the Russian government instructs its economic actors to make deals with foreign entities to establish increased leverage and influence within these countries.”<sup>19</sup> Ambassador McFaul explained that Russia’s use of these “economic incentives and operations can be highly cooperative and coercive,” but also involve “blackmailing” relating to financial or other types of misconduct.<sup>20</sup> As an example of how Russia could leverage President Trump’s financial interests to improperly influence U.S. policy, Ambassador McFaul noted that the proposed financier for the Trump Tower Moscow project that Trump Organization officials were secretly pursuing during the 2016 campaign—Russian state-owned bank VTB—was on the U.S. sanctions list.<sup>21</sup> By aligning Trump’s personal financial interests with those of a U.S.-sanctioned Russian state-owned bank, Russia positioned itself to potentially leverage the Trump Tower Moscow project to help pursue its own policy goals and interests.<sup>22</sup>

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[turkey.html](#) (detailing Trump’s financial ties to Turkey, including licensing fees earned from the Trump Towers Istanbul that Trump opened with a Turkish business partner, and quoting Trump in 2015 stating, “I have a little conflict of interest because I have a major, major building in Istanbul”).

<sup>19</sup> *Putin’s Playbook: The Kremlin’s Use of Oligarchs, Money and Intelligence in 2016 and Beyond: Hearing Before the H. Permanent Select Comm. on Intelligence*, 116th Cong. (2019) (“HPSCI Hearing: Putin’s Playbook”) (prepared statement of Michael McFaul, Former U.S. Ambassador to Russia), at 8, <https://perma.cc/4EZF-XRN3>.

<sup>20</sup> *Id.* Russia’s use of businessmen and its exploitation of business ties and debts to gather intelligence and gain influence is not speculative. As discussed in the reports issued by the Special Counsel Mueller in 2019 and SSCI in 2020, Russia used business contacts of President Trump’s campaign chairman Paul Manafort—specifically, Konstantin Kilimnik, whom SSCI determined is a “Russian intelligence officer,” and Oleg Deripaska, a Kremlin-linked oligarch—as vehicles to gather intelligence about Trump’s campaign and to influence the campaign’s policy positions toward Russia and Ukraine. See Special Counsel Robert S. Mueller, III, *Report on the Investigation Into Russian Interference in the 2016 Presidential Election*, Vol. I, at 129-31 (Mar. 2019) (describing Manafort sharing internal Trump campaign polling data and other campaign information with Kilimnik for further sharing with Deripaska, and Kilimnik transmitting to Manafort a proposed Russian “peace plan” that was, in reality, a “‘backdoor’ means for Russia to control eastern Ukraine”); SSCI Report, Vol. V, at 28-30 (describing how after Manafort joined the Trump campaign, he “quickly sought to leverage his position to resolve his multi-million dollar foreign disputes and obtain new work in Ukraine and elsewhere,” including by “secretly shar[ing] internal Campaign information with Kilimnik” and “discuss[ing] with Kilimnik a peace plan for eastern Ukraine that benefited the Kremlin,” which created a situation that SSCI determined “represented a grave counterintelligence threat”).

<sup>21</sup> HPSCI Hearing: Putin’s Playbook, at 10.

<sup>22</sup> U.S. policymakers like President Trump are not alone in being targeted by Russia using financial leverage. A British government report on Russian influence operations in the United Kingdom, which was recently published after an extensive investigation by the Intelligence and Security Committee of the U.K. Parliament, highlighted Russia’s use of financial leverage to influence U.K. policymakers and policy. See U.K. Intelligence and Security Committee of Parliament, *Russia* (July 21, 2020) (“U.K. Russia Report”), <https://docs.google.com/a/independent.gov.uk/viewer?a=v&pid=sites&srcid=aW5kZXBlbmRlbnQuZ292LnVrfGlzY3xneDo1Y2RhMGEyN2Y3NjM0OWFl>. The report describes how “links of the Russian elite to the UK – especially where this involves business and investment – provide access to UK companies and political figures, and thereby a means for broad Russian influence in the UK.” *Id.* at 15-16. The report especially noted that “a number of

The evidence obtained by the Committee during its impeachment inquiry into President Trump's conduct toward Ukraine further demonstrated that there is a strong basis to believe that the President's national security decision-making is influenced by his personal interests rather than the national interest. In the summer of 2019, the Committee learned that President Trump was improperly withholding U.S. security assistance from Ukraine to pressure that country to announce an investigation of a political rival, former Vice President Joe Biden.<sup>23</sup> Although the President's conduct toward Ukraine—for which he was impeached by the House in December 2019—appears to have principally been motivated by Trump's personal political interests, rather than his financial interests, it nevertheless established that Trump is willing and able to manipulate U.S. foreign policy to serve his personal interests. That is not to say there is no evidence that President Trump has manipulated U.S. foreign policy in service of his personal financial interests. For example, in early 2018 President Trump reportedly requested that the U.S. Ambassador to the United Kingdom, Trump-donor Woody Johnson, seek the British government's assistance to steer the British Open to the Trump Turnberry golf resort in Scotland.<sup>24</sup> But in any event, the evidence obtained in the Committee's impeachment inquiry starkly demonstrated that President Trump has no qualms about using the levers of government to promote his personal interests—even if such actions jeopardize U.S. national security. President Trump's impeachment, therefore, reinforced the need for the Committee's investigation into the President's foreign financial interests and whether foreign actors might exert leverage over the President because of his financial interests in their countries.

The need for the Committee's investigation was further reinforced by subsequent revelations by Ambassador John Bolton, President Trump's former National Security Advisor, in

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Members of the House of Lords have business interests linked to Russia, or work directly for major Russian companies linked to the Russian state," which the report recommended "should be carefully scrutinised, given the potential for the Russian state to exploit them." *Id.* at 16. Given that "Russian intelligence and business are completely intertwined," the Report concluded that "the Government must [redacted], take the necessary measures to counter the threat and challenge the impunity of Putin-linked elites," including—as HPSCI is pursuing—through the "key step" of legislation. *Id.*

<sup>23</sup> See House Permanent Select Committee on Intelligence, *The Trump-Ukraine Impeachment Inquiry Report* (Dec. 2019), [https://intelligence.house.gov/uploadedfiles/the\\_trump-ukraine\\_impeachment\\_inquiry\\_report.pdf](https://intelligence.house.gov/uploadedfiles/the_trump-ukraine_impeachment_inquiry_report.pdf).

<sup>24</sup> See Mark Landler et al., *Trump's Request of an Ambassador: Get the British Open for Me*, N.Y. TIMES (July 21, 2020), <https://www.nytimes.com/2020/07/21/world/europe/trump-british-open.html>. Additional examples of President Trump misusing the presidency for personal profit include Trump's attempt to host the 2020 G-7 summit at his financially struggling Trump National Doral Miami resort in Florida, see Katie Rogers & Eric Lipton, *Trump Will Host Next G7 Summit at His Doral Resort*, N.Y. TIMES (Oct. 17, 2019), <https://www.nytimes.com/2019/10/17/us/politics/trump-g7-doral.html>, and Trump's use of his properties around the world for official government business, see, e.g., Eric Lipton, *Pentagon Says It Spent \$184,000 in 2 Years at Trump's Scotland Resort*, N.Y. TIMES (Sept. 18, 2019), <https://www.nytimes.com/2019/09/18/us/politics/pentagon-trump-turnberry.html> (reporting that between August 2017 and July 2019, Defense Department records show \$124,579 was spent at Trump Turnberry and that an additional \$59,729 was spent in travel charges associated with the Trump Turnberry that could not be tied to actual travel vouchers); David Fahrenthold & Joshua Partlow, *Trump's Company Has Received At Least \$970,000 From U.S. Taxpayers For Room Rentals*, WASH. POST (May 14, 2020), [https://www.washingtonpost.com/politics/trumps-company-has-received-at-least-970000-from-us-taxpayers-for-room-rentals/2020/05/14/26d27862-916d-11ea-9e23-6914ee410a5f\\_story.html](https://www.washingtonpost.com/politics/trumps-company-has-received-at-least-970000-from-us-taxpayers-for-room-rentals/2020/05/14/26d27862-916d-11ea-9e23-6914ee410a5f_story.html) (reporting that as of May 2020, the U.S. government has paid at least \$970,000 to President Trump's company since Trump took office, including payments for more than 1,600 nightly room rentals at Trump's hotels and clubs).

his recently published book.<sup>25</sup> In addition to corroborating HPSCI’s evidence of President Trump’s abuse of power relating to the withholding of security assistance from Ukraine, Ambassador Bolton recounted episodes that illustrate what Ambassador Bolton described as President Trump’s “pursuit of personal interest under the guise of national interest.”<sup>26</sup> For example, Ambassador Bolton described Trump’s resistance to sanctions on Russia and his belief “that criticizing the policies and actions of foreign governments made it harder for him to have personal relations with their leaders” as a reflection of Trump’s “difficulty in separating personal from official relations.”<sup>27</sup> While there is nothing inherently improper about a U.S. president desiring a good personal relationship with foreign leaders, Ambassador Bolton explained that President Trump pursued policies, or refrained from taking actions, in order to preserve his personal relationships with foreign leaders *at the expense of U.S. national security*. In addition to President Trump’s refusal to criticize Putin, Ambassador Bolton described Trump’s willingness to intervene in a federal criminal investigation into Turkey’s Halkbank and to remove U.S. military forces from northern Syria in order to curry favor with Turkish President Recep Tayyip Erdogan.<sup>28</sup> Similarly, Ambassador Bolton alleged that Trump decided to rollback penalties imposed on Chinese telecommunications firm ZTE as a result of Trump’s desire to curry favor with Chinese President Xi Jinping.<sup>29</sup> Trump also allegedly asked President Xi to buy American farm products in exchange for tariff relief in order to help Trump with a key constituency in the 2020 presidential election.<sup>30</sup>

President Trump’s extensive—but still opaque—foreign financial ties, combined with his demonstrated willingness to place his personal interests above the national interest and susceptibility to foreign influence, raise a serious question of whether numerous foreign policy decisions by Trump—which on their face seem to be at odds with the U.S. national interest—are being driven by Trump’s foreign financial interests. The existing public record raises serious concern that Trump may have used—and may still be using—the presidency to preserve and enhance his *existing* business interests in foreign countries, and that he may be seeking to curry favor with foreign leaders in order to reap *new* business opportunities after his presidency ends. Foreign leaders—who are undoubtedly aware of President Trump’s financial interests in their countries and potentially seeking to cultivate his interest in future business ventures in their countries or with their citizens—may also be leveraging those interests in order to obtain concessions from the President or otherwise shape U.S. policy to their advantage. The President’s foreign financial entanglements, therefore, potentially raise serious counterintelligence risks that pose a direct and imminent threat to U.S. national security.

To the Committee’s knowledge, a complete and rigorous assessment of President Trump’s foreign financial conflicts of interest and the counterintelligence risks arising therefrom has not been conducted by federal law enforcement, the Intelligence Community, other

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<sup>25</sup> See John Bolton, *THE ROOM WHERE IT HAPPENED: A WHITE HOUSE MEMOIR* (2020).

<sup>26</sup> *Id.* at 485.

<sup>27</sup> *Id.* at 180-81.

<sup>28</sup> *Id.* at 191-94.

<sup>29</sup> *Id.* at 290-94.

<sup>30</sup> *Id.* at 298.

Executive Branch agencies, or any other congressional committee.<sup>31</sup> Given the near plenary power that the President has over the intelligence and counterintelligence activities of the government, the lack of a full investigation of counterintelligence risks posed by President Trump himself—including, for example, risks arising from links and contacts between his campaign and Russia, which SSCI investigated, and his foreign financial ties, which HPSCI is investigating—by the Executive Branch is not surprising. But the lack of such an inquiry into the President’s foreign financial ties by the Executive Branch (or by SSCI) makes the Committee’s investigation and consideration of additional oversight and legislation all the more necessary and urgent.

The lack of access to Trump’s personal and corporate financial records, however, has severely impeded the Committee’s investigation of counterintelligence risks arising from President Trump’s foreign financial ties and its assessment of the government’s response to these threats. While the fact of President Trump’s financial interests in certain foreign countries, such as his golf courses in Ireland and Scotland, has been reported publicly, the available information is insufficient to determine, for example, all of the countries where Trump has financial interests; the nature, scope, and magnitude of such interests; the identities and roles of foreign individuals, banks, and other entities with a stake or otherwise involved in such interests; and the extent of any foreign government involvement in such interests. As such, the Committee is currently unable to identify all of the President’s foreign financial ties and conflicts, assess the significance of such ties, determine whether and how particular U.S. policies may be influenced by such ties, assess whether such ties give rise to counterintelligence risks, or determine whether the U.S. government is aware of and properly responding to such threats.

The Committee’s deep concerns about President Trump’s foreign financial entanglements and the threat of foreign financial leverage are further heightened by the President’s persistent refusal to disclose his financial records and information.<sup>32</sup> Because the Trump Organization—from which the President has not fully divested in a break with over four decades of presidential precedent—is not a public company, it does not publish audited annual or quarterly financials that might reveal the details of foreign financial ties and conflicts of interest. In addition, unlike other federal officials who must disclose detailed information about their financial holdings and relationships that might pose counterintelligence risks in connection with their security clearance

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<sup>31</sup> As HPSCI and SSCI have confirmed through their investigations and oversight, the investigation conducted by Special Counsel Robert Mueller was not a counterintelligence investigation and, in any event, his Report does not examine the potential counterintelligence risks arising from the President’s foreign financial ties. Based on the Committee’s review, it does not appear that Special Counsel Mueller issued any grand jury subpoenas to obtain the President’s financial records. The Committee also has reason to believe, based on its oversight work, that the FBI Counterintelligence Division has not investigated counterintelligence risks arising from President Trump’s foreign financial ties. In addition, the recently released final volume of SSCI’s Report on Russian interference in the 2016 election makes clear that SSCI did not obtain President Trump’s financial records or examine the counterintelligence risks arising from the President’s foreign financial ties, although certain Senators urged the committee to expand its counterintelligence investigation to include this threat.

<sup>32</sup> See, e.g., Steve Eder & Ben Protess, *Where’s Trump’s Financial Disclosure? The White House Blames the Pandemic*, N.Y. TIMES (July 8, 2020), <https://www.nytimes.com/2020/07/08/us/politics/trump-financial-disclosure.html> (“After initially suggesting he would release his tax returns during the 2016 presidential campaign, Mr. Trump has never done so, breaking with recent presidential tradition and leaving the annual ethics disclosure as the only public accounting of his finances.”).



applications, the President is not subject to such disclosure requirements. Moreover, the financial disclosure requirements to which President Trump is subject are not sufficiently robust to reveal a host of potential conflicts and vectors for foreign influence. While the President must release limited personal financial information as part of his candidate filings with the Federal Election Commission (FEC) and in his annual financial disclosure filed with the Office of Government Ethics (OGE), such disclosures are imprecise<sup>33</sup>, have been shown to contain material errors<sup>34</sup>, and, in any event, lack sufficient detail about the President’s foreign partners, assets, debts, income, and expenses, necessary to identify and determine the nature and scope of all potential foreign financial conflicts of interest; the foreign individuals, banks, other entities, and governments involved; assess their significance and whether they give rise to counterintelligence risks; or determine whether the U.S. government’s response is adequate.<sup>35</sup>

For example, President Trump’s most recent financial disclosure filed with OGE on July 31, 2020 (for calendar year 2019) shows that the Trump Organization earned over \$440 million in revenue.<sup>36</sup> But the President’s financial disclosure provides no detail about the sources—including potentially foreign sources—of that revenue or any expenses—including those paid to

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<sup>33</sup> See, e.g., Jeremy Vendook, *Everything We Know From Trump’s (Limited) Financial Disclosures*, The Atlantic (Jan. 19, 2017), <https://www.theatlantic.com/business/archive/2017/01/trump-fec-filings/513389/> (detailing the “significant limitations” of Trump’s FEC filings, including that the “forms indicate not precise values but bands that are at times so broad as to be almost unreadable,” that “many of the companies he owns, fully or partially, are limited-liability companies, or LLCs, some of which are not legally obligated to disclose any of their financial records or even their owners,” and that “the loans listed on his forms are only a fraction of his overall debt”); Public Citizen, *President Trump, Inc.: An Analysis of President Trump’s Financial Disclosures: What we Know, Don’t Know, and Why It All Matters* 34 (Sept. 5, 2017) (“[T]he 278e form presents more questions than answers. The ambiguity and imprecision of the form provides few insights into the financial health of both the president and his businesses.”).

<sup>34</sup> See, e.g., Letter from David Apol, Acting Director, Office of Gov’t Ethics, to Rod Rosenstein, Deputy Attorney General, Dep’t of Justice (May 16, 2018), <https://perma.cc/HPJ3-ZKQU> (concluding that a payment made by President Trump’s former personal lawyer, Michael Cohen, to a third party constituted a loan to President Trump that should have been reported as a liability on his public financial disclosure report signed on June 14, 2017 for calendar year 2016); Jim Dwyer & Eric Lipton, *A Great Big Gift Not on Trump’s Disclosure Form: Giuliani’s Legal Advice*, N.Y. TIMES (Dec. 3, 2019), <https://www.nytimes.com/2019/12/13/us/politics/giuliani-trump-financial-disclosure.html> (“Mr. Trump did not mention Mr. Giuliani or his unpaid labor on the annual financial disclosure he filed in May, which requires that the value and source of gifts — including free legal work — be publicly listed.”).

<sup>35</sup> See 5 C.F.R. § 2634.104(c) (“Financial disclosure reports are not net worth statements. Financial disclosure systems seek only the information that the President, Congress, or OGE as the supervising ethics office for the executive branch has deemed relevant to the administration and application of the criminal conflict of interest laws, other statutes on ethical conduct or financial interests, and Executive orders or regulations on standards of ethical conduct.”). In a hearing before the Committee on Oversight and Reform, the former director of the Office of Government Ethics testified that President Trump’s “refusal to divest his conflicting financial interests” has been the “trigger” for “an ethics crisis,” leaving “the public with no way of knowing how personal interests are affecting public policy.” *H.R. 1: Strengthening Ethics Rules for the Executive Branch: Hearing Before the H. Comm. on Oversight & Reform*, 116<sup>th</sup> Cong. 125 (2019) (testimony of Walter Shaub, Jr.); see also *id.* at 130 (explaining that current “requirements do not require [President Trump] to disclose needed information about his privately held companies”).

<sup>36</sup> See 2020 Financial Disclosure Report for President Donald J. Trump (July 31, 2020) (“2020 Trump Financial Disclosure”), available at: Office of Government Ethics Website, <https://extapps2.oge.gov/201/Presiden.nsf/President%20and%20Vice%20President%20Index>.

any key foreign vendors—incurred in generating the revenue.<sup>37</sup> While President Trump’s financial disclosure does break out revenue for some of his foreign properties, such as his Turnberry golf course in Scotland, it does not disclose the source of that revenue, any expenses related to that asset, or any debts associated with the property.<sup>38</sup> Equally problematic is the fact that although President Trump is required to report all personal liabilities, he does not have to disclose any loans or other debts—including any owed to foreign creditors—belonging to the Trump Organization (or any of its numerous affiliated LLCs) unless he is also *personally* liable for that loan or other debt.<sup>39</sup> As a result, there may be loans or debts that the Trump Organization (or one of its affiliated LLCs)—from which the President has not fully divested—owes to a foreign creditor that do not appear on the President’s financial disclosure because he is not a personal guarantor of that loan or debt.

HPSCI has, therefore, sought the President’s personal and corporate financial records from Deutsche Bank to determine the nature, scope, and magnitude of the President’s foreign financial ties; whether any potential conflicts of interest exist; the identity of other individuals and entities involved in such ties; and whether—and through what means and methods—particular foreign governments, entities, or individuals have exploited, or could potentially exploit, any leverage over the President that such financial ties provide. As discussed further below, HPSCI requires President Trump’s financial records in order to direct its oversight of the Intelligence Community, particularly those elements charged with identifying and addressing potential counterintelligence risks, and the nation’s foreign intelligence and counterintelligence policies, authorities, and activities; to draft and refine specific legislative proposals that would direct appropriate elements of the Intelligence Community to undertake actions to address the

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<sup>37</sup> See generally *id.* The opacity of the Trump Organization’s revenue sources is compounded by the fact that many of its property sales are made to limited liability companies (LLCs) that obscure the buyers’ identities. According to one analysis of such transactions, “[t]he trend toward Trump’s real estate buyers obscuring their identities began around the time he won the Republican nomination, midway through 2016”: “In the two years before the nomination, 4% of Trump buyers utilized the tactic”; “[i]n the year after, the rate skyrocketed to about 70%.” Nick Penzenstadler, *Trump Sold \$35M in Real Estate in 2017, Mostly to Secretive Buyers*, USA Today (Jan. 10, 2018), <https://www.usatoday.com/story/news/2018/01/10/trumps-secretive-real-estate-sales-continue-unabated/1018530001>. Based on a review of Trump’s latest OGE filing, this trend continued in 2019. See Meredith Lerner et al., CREW, *Trump’s Financial Disclosure Shows His Trump Org Promotion Paying Off* (July 31, 2020), <https://www.citizensforethics.org/president-trumps-2019-personal-financial-disclosure> (“Trump received nearly \$12 million for condo sales in buildings he owns and co-owns. A large portion of this sum came from anonymous LLCs. In fact, all of the \$7.4 million paid to Trump for condo sales in Trump Parc were from unknown buyers.”). Such property sales pose potential conflicts of interest because anyone, foreign or domestic, seeking to influence the President could purchase multiple properties or purposely overpay, all while concealing their identity by using an LLC to acquire the property.

<sup>38</sup> See 2020 Trump Financial Disclosure at 5, A12 (listing the value of Turnberry as “over \$50,000,000” and 2019 revenue as “\$25,691,318”—but not disclosing the sources of that revenue (including any foreign sources), any expenses (including any foreign accounts payable), or any debts (including any foreign creditors)—associated with that property). There is a similar lack of detail for Trump’s golf courses in Aberdeen, Scotland, and Doonbeg, Ireland, as well as for his golf management services contract in Dubai, United Arab Emirates.

<sup>39</sup> See Office of Gov’t Ethics, *Public Financial Disclosure Guide: FAQs-Liabilities*, <https://www.oge.gov/Web/278eGuide.nsf/Content/FAQs~FAQs:+Liabilities> (last accessed August 13, 2020) (“You do not have to report the liabilities of a business, unless you, your spouse, or a dependent child is personally liable (i.e., do not include a loan owed by a LLC, unless you, your spouse, or a dependent child is also personally liable for that same loan).”).

threats posed by the President’s foreign financial ties and potential leverage held by our foreign adversaries; to rescind, revise, or defund Trump Administration policies that may be the product of such foreign financial ties or leverage; and to prevent future presidents from shielding such financial conflicts and counterintelligence risks from Congress and the American people.

## **2. HPSCI’s Subpoena to Deutsche Bank**

In furtherance of its investigation, in April 2019 HPSCI issued a subpoena to Deutsche Bank to obtain financial records for President Trump, his business, and his immediate family. The subpoena sought documents and information relevant to determining President Trump’s foreign financial entanglements, including all documents identifying any “financial relationship, transactions, or ties ... [with] any foreign individual, entity, or government.” It also requested any internal Deutsche Bank reviews, reports, communications, and similar documents identifying foreign financial ties, highlighting suspicious foreign transactions, or otherwise discussing connections between the President’s businesses and foreign individuals, entities, or governments. All of the documents and information that HPSCI’s subpoena required Deutsche Bank to produce were relevant to its investigation and had—and continue to have—legitimate legislative purposes.

Nevertheless, in light of the Supreme Court’s recent opinion in *Trump v. Mazars*, and in order to minimize any separation of powers concerns and expeditiously resolve this matter, the Committee will voluntarily revise its subpoena to Deutsche Bank with respect to the named plaintiffs in *Trump v. Deutsche Bank*<sup>40</sup> to:

- limit the accounts covered by the subpoena to only those belonging to Donald J. Trump, Ivanka Trump, Donald Trump, Jr., Eric Trump, the Trump Organization (and its component and affiliated corporate entities), and the Donald J. Trump Revocable Trust, but not other immediate family members as requested in the original subpoena;
- with the three exceptions described below, narrow the timeframe of the subpoena by five years to January 1, 2015 through the present, instead of January 1, 2010 through the present, as covered by the original subpoena;
- limit the request for monthly account statements to only those transactions in the amount of \$10,000 or more, instead of the complete monthly account statements as requested in the original subpoena; and
- limit the documents and information sought by the subpoena to those that specifically show or may reveal “any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or

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<sup>40</sup> Under HPSCI’s rules, the Chairman has the authority to amend the subpoena and to accept the narrower set of documents and information in satisfaction of the subpoena without a Committee vote. To be clear, the amendments to HPSCI’s subpoena described herein shall apply only to the named plaintiffs in the *Trump v. Deutsche Bank* litigation; the subpoena shall remain unamended and fully enforceable as to other parties named in the subpoena or whose information is sought in the subpoena, except as otherwise may have been agreed to separately by HPSCI.

government,” with the exception of (a) account application and opening records, which are necessary to show the ownership and control of, and any foreign interest in, the accounts held by the Covered Parties; and (b) documentation of transactions in the amount of \$10,000 or more, for which it would be impractical to identify foreign links on the face of the transaction and will likely require additional investigation to discover any foreign links.

By limiting the monthly account statements that are produced to transactions in the amount of \$10,000 or more, and other categories of documents and information sought to only those that show or may reveal foreign financial ties, the amended subpoena will not only minimize separation of powers concerns, but also take account of the concerns expressed by the Court of Appeals for the Second Circuit about the possible production of “sensitive personal information,” such as payments for employee healthcare expenses (which are likely to be in amounts less than \$10,000), or “other possibly excludable documents.”<sup>41</sup>

Thus, the schedule to HPSCI’s subpoena to Deutsche Bank will be amended with respect to the named plaintiffs in *Trump v. Deutsche Bank* as follows:

- The accounts covered are those held in the name of, or for the benefit of, Donald J. Trump; Ivanka Trump; Donald Trump, Jr.; Eric Trump; the Trump Organization (and its component and affiliated corporate entities); and the Donald J. Trump Revocable Trust (the “Covered Parties”).
- Except as noted below, the time period applicable to the categories of documents demanded by the subpoena is January 1, 2015 through the present.
- The documents and information requested by the amended subpoena are:
  1. documents sufficient to show ownership of, control of, and all financial interests, including any foreign interests, in accounts held by the Covered Parties, such as account applications and opening documents, and all know-your-customer (KYC), due diligence, and other documents that show or may reveal (a) any financial relationship, transactions, or ties between the Covered Parties and any foreign individual, entity, or government; and (b) any interest held by any foreign individual, entity, or government in any accounts held by the Covered Parties, including, for example, documents concerning:
    - a. foreign-backed assets of any of the Covered Parties;
    - b. other assets of the Covered Parties in which a foreign actor has any financial interest;
    - c. assets acquired from any of the Covered Parties by a foreign actor;

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<sup>41</sup> *Trump v. Deutsche Bank AG*, 943 F.3d 627, 667-68 (2d Cir.), *cert. granted*, 140 S. Ct. 660 (2019), *and rev’d and remanded sub nom. Trump v. Mazars USA, LLP*, 140 S. Ct. 2019 (2020) (expressing concern in particular about the absence of any “dollar limitations” to the request in the original subpoena for “analyses of . . . transfers, including . . . the destination of the transfers . . . , including *any . . . check . . .*”) (emphasis in original).

- d. debts owed directly or indirectly to a foreign actor by any of the Covered Parties;
- e. loans held by any of the Covered Parties that are guaranteed by a foreign actor or in which a foreign actor otherwise has a financial interest; and
- f. any possible money laundering by foreign actors involving accounts held by any of the Covered Parties

**(The time limit on the subpoena shall not apply to this request);**

- 2. documents related to Deutsche Bank's monitoring for, identifying, or investigating possible suspicious activity, including suspicious activity identified by Deutsche Bank's financial surveillance/monitoring program or referred by any employee or third-party, relating to any relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 3. monthly or other periodic account statements for the Covered Parties' accounts to the extent they provide details of any transactions in the amount of \$10,000 or more (details of transactions less than \$10,000 shall be redacted from the account statements);
- 4. documents related to any domestic or international transfer of funds in the amount of \$10,000 or more, including any wire transfer, check, cash letter, cashier's check, book entry transfer, or other such documents showing the originator, beneficiary, source of funds, and destination of such transfer;
- 5. documents relating to any investment, bond offering, line of credit, loan, mortgage, syndication, credit or loan restructuring, or any other credit arrangement or arrangement to raise or provide funding by Deutsche Bank that show, or may reveal, any relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 6. any financial documents and information provided to Deutsche Bank, or to which access was granted to Deutsche Bank, by any of the Covered Parties in connection with any investment, bond offering, line of credit, loan, mortgage, syndication, credit or loan restructuring, or any other credit arrangement or arrangement to raise or provide funding that show, or may reveal, any relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government, including:
  - a. personal or corporate financial statements or similar documents showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments;
  - b. statements of net worth showing any foreign assets and liabilities;
  - c. debt schedules showing any debts owed, directly or indirectly, to any foreign individuals, entities, or governments;

- d. business operating statements showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments;
- e. cash flow statements showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments;
- f. bank and brokerage account records relating to any accounts held at foreign banks or other foreign financial institutions;
- g. tax returns and schedules, or portions thereof, to the extent they show any foreign sources of income, foreign bank or other financial accounts, foreign debt payments, interests held by the taxpayer in any foreign business entity or foreign bank/investment account, and interests held by any foreign individual, entity, or government in any of the taxpayer's business entities

**(The time period for this request shall also include January 1, 2011 through December 31, 2011<sup>42</sup>);**

- 7. documents related to any request for information issued or received by Deutsche Bank pursuant to Sections 314(a) or 314(b) of the USA PATRIOT Act, Pub. L. 107-56, relating to any financial relationships transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 8. documents not otherwise kept in customary record-keeping systems (including, but not limited to, any document in any personal file or desk file) relating to any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 9. documents provided to, discussed with, or generated by any member of Deutsche Bank's Management Board, Supervisory Board, or Reputational Risk Committee relating to any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 10. documents generated or maintained in connection with Deutsche Bank's Covered Client and Politically Exposed Persons programs relating to any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government;
- 11. documents generated or maintained in connection with any other internal Deutsche Bank review, study, investigation, summary, or analysis relating to any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government; and

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<sup>42</sup> It has been publicly reported that during this period of time a "small team" from Deutsche Bank "sifted through Trump's personal and corporate financial records and tax returns" as part of the bank's due diligence for extending new loans to Trump. David Enrich, *The Money Behind Trump's Money*, New York Times Magazine (Feb. 4, 2020), <https://www.nytimes.com/2020/02/04/magazine/deutsche-bank-trump.html>.

12. any other documents that show or may reveal any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government.

In addition, in an effort to avoid further litigation, HPSCI has engaged, and will continue to engage, in good-faith negotiations with counsel for President Trump and the other named plaintiffs to obtain their consent to Deutsche Bank’s production of the above-narrowed set of documents and information. Should those negotiations fail or should President Trump drag-out the negotiations as a pretext for further delaying the Committee’s investigation, the Committee will proceed with the litigation to obtain full compliance with its narrowed subpoena in accordance with the Supreme Court’s decision in *Trump v. Mazars*.

### **3. Application of the *Mazars* Factors to HPSCI’s Subpoena to Deutsche Bank**

In *Trump v. Mazars*, the Supreme Court reaffirmed certain core principles concerning congressional subpoenas issued pursuant to Congress’s legislative and oversight authorities. First and foremost, “[t]he congressional power to obtain information is ‘broad’ and ‘indispensable.’”<sup>43</sup> “It encompasses inquiries into the administration of existing laws, studies of proposed laws, and ‘surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them.’”<sup>44</sup> Because Congress’s responsibilities “extend to ‘every affair of government,’” the Court observed that “[l]egislative inquiries might involve the President in appropriate cases.”<sup>45</sup> While a congressional subpoena must “serve a valid legislative purpose,” that is, it must “concern a subject on which legislation *could* be had,”<sup>46</sup> the Court reiterated that “[u]nless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served.”<sup>47</sup> The principles articulated by the Supreme Court are consistent with Congress’s longstanding use of subpoenas to obtain information necessary to perform its constitutional responsibilities.<sup>48</sup>

The *Mazars* Court established a non-exhaustive list of four factors that apply when evaluating the validity of congressional subpoenas seeking a president’s personal information in order to take into account separation of powers concerns that may arise in such circumstances.

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<sup>43</sup> *Trump v. Mazars*, Slip Op. at 11 (quoting *Watkins v. United States*, 354 U. S. 178, 187, 215 (1957)).

<sup>44</sup> *Id.* (quoting *Watson*, 354 U.S. at 187).

<sup>45</sup> *Id.* at 14.

<sup>46</sup> *Id.* at 11-12 (internal quotation marks and brackets omitted) (emphasis added).

<sup>47</sup> *Id.* at 14 (quoting *United States v. Rumely*, 345 U.S. 41, 43 (1953)).

<sup>48</sup> *See id.*; *see also Committee on the Judiciary v. McGahn*, No. 19-5331, Slip Op. at 11 (D.C. Cir. Aug. 7, 2020) (en banc) (“The power of each House of Congress to compel witnesses to appear before it to testify and to produce documentary evidence has a pedigree predating the Founding and has long been employed in Congress’s discharge of its primary constitutional responsibilities: legislating, conducting oversight of the federal government, and, when necessary, checking the President through the power of impeachment.”); *see also id.* at 12 (“Congress commonly uses subpoenas not only to develop legislation but also in furtherance of its oversight of the federal government, including the Executive Branch.”).

As set forth below, HPSCI's subpoena to Deutsche Bank, as amended, is justified and valid under these factors.

*a. HPSCI Cannot Reasonably Obtain the Materials from Another Source*

*First*, the documents and information sought from Deutsche Bank cannot reasonably be obtained from other sources in light of HPSCI's legitimate legislative objectives.<sup>49</sup> HPSCI is not seeking President Trump's financial records as part of a "case study" for general legislation. To the contrary, the Committee requires Trump's personal and corporate financial records because its investigation is focused on counterintelligence risks arising from foreign financial conflicts of interest and the possibility of foreign financial leverage *involving President Trump*.

In order to conduct appropriate oversight and determine whether—and if so, how—to draft legislation to address the potential counterintelligence threats that the Committee is investigating, the Committee requires the financial records relating to the President, his company, his trust, and his three immediate family members who are closely intertwined with his business. Without the details that the Committee expects are contained in the subpoenaed records from Deutsche Bank, as narrowed by the Committee, the Committee will be unable to identify the nature and scope of President Trump's foreign financial ties and potential conflicts; assess the intentions, capabilities, means and methods, and counterintelligence risks of specific foreign parties involved; determine whether any particular U.S. foreign policy decision may have been tainted by the President's foreign financial ties; conduct effective oversight of the Intelligence Community; evaluate the government's response to any such counterintelligence threats; or consider and draft appropriate legislation.

The Committee is unaware of any financial institution other than Deutsche Bank that could provide the requested documents. Other banks have reportedly refused to do business with the Trump Organization, leaving Deutsche Bank to serve as the lender of last resort. As a result, the Committee is unaware of any other financial institution that would have in its possession the types of records—including those provided by President Trump and the Trump Organization in order to obtain financing—that would reveal the details of President Trump's foreign financial ties. Further, some of the records that the Committee is seeking from Deutsche Bank, such as internal reports of suspicious activity and the results of the bank's own internal examinations of foreign financial interests of President Trump, are also uniquely in Deutsche Bank's possession. Even if other financial institutions did possess similar records, however, President Trump would likely raise the same objections as he has concerning the Deutsche Bank records that the Committee has sought.

Seeking financial records directly from the Trump Organization would be futile, as evidenced by President Trump's continuing efforts to block disclosure of his financial records despite congressional and state law enforcement subpoenas.<sup>50</sup> Nor can the Committee

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<sup>49</sup> *Trump v. Mazars*, Slip Op. at 19.

<sup>50</sup> See, e.g., Second Am. Comp., *Donald Trump v. Cyrus Vance et al.*, No. 19 Civ. 8694 (S.D.N.Y. filed July 27, 2020) (ECF 57) (arguing that subpoena issued to Mazars by N.Y. District Attorney's Office is "wildly overbroad," "issued in bad faith," and amounts to "harassment of the President").



realistically seek such records from foreign sources, such as any foreign lenders or foreign business partners of the Trump Organization. To date, the Committee has been unable to identify the full universe of relevant foreign parties with which President Trump may have a financial relationship. But even if all such foreign partners could be discovered without the Deutsche Bank records, it is unlikely they would voluntarily produce documents and information about their business dealings with the President and his company to the Committee. And if the foreign partners refused, the Committee would face significant hurdles in attempting to compel them to produce documents or provide information to the Committee via subpoena.

Accordingly, the Committee has no choice but to seek President Trump’s personal and corporate financial records from Deutsche Bank.

**b. *HPSCI’s Subpoena Is No Broader Than Reasonably Necessary***

*Second*, HPSCI’s revised subpoena is “no broader than reasonably necessary to support [HPSCI’s] legislative objective.”<sup>51</sup> All of the documents and information sought are plainly “reasonably necessary” for the Committee to determine the existence, nature, scope, and magnitude of President Trump’s foreign financial ties, and which foreign individuals, entities, or governments may hold leverage over him, his business, or his immediate family. They are also “reasonably necessary” for the Committee to determine the specific tactics, techniques, and procedures that foreign adversaries may have used, or may seek to use, to obtain leverage and influence over Trump based on his foreign financial ties when he was a candidate and while serving as president. While the Supreme Court in *Trump v. Mazars* did not require the Committee to show that the documents and information sought are critical to HPSCI’s consideration of oversight and legislation to address such threats to our national security, there can be no question that they are.

The narrowed subpoena seeks only financial records relating to President Trump, his business, his trust, and his three immediate family members who are closely involved in the Trump Organization—including its foreign operations. Thus, the subpoena seeks records only for Donald Trump; the Trump Organization, the Donald J. Trump Revocable Trust, in which the President’s stake in the Trump Organization and other assets have purportedly been placed, but from which the President can reportedly draw down funds at any time<sup>52</sup>; Ivanka Trump, who previously was an executive at the Trump Organization and currently serves as one of the President’s senior advisors; and Donald Trump, Jr. and Eric Trump, who currently run the Trump Organization on behalf of their father, control the Trust, and are active politically for him.

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<sup>51</sup> See *Trump v. Mazars*, Slip Op. at 19.

<sup>52</sup> See Peter Overby, *Change To President Trump’s Trust Lets Him Tap Business Profits*, NPR (Apr. 3, 2017), <https://www.npr.org/2017/04/03/522511211/change-to-president-trumps-trust-lets-him-tap-business-profits>; Derek Kravitz & Al Shaw, *Trump Lawyer Confirms President Can Pull Money From His Businesses Whenever He Wants*, Pro Publica (Apr. 4, 2017), [https://www.propublica.org/article/trump-pull-money-his-businesses-when-ever-he-wants-without-telling-us?utm\\_campaign=sprout&utm\\_medium=social&utm\\_source=sprout&utm\\_content=1491221180](https://www.propublica.org/article/trump-pull-money-his-businesses-when-ever-he-wants-without-telling-us?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1491221180) (“The previously unreported changes to a trust document, signed on Feb. 10, stipulates that it ‘shall distribute net income or principal to Donald J. Trump at his request’ or whenever his son and longtime attorney ‘deem appropriate.’ That can include everything from profits to the underlying assets, such as the businesses themselves.”).

The subpoena no longer seeks financial records for any other members of President Trump’s family.

The records sought are those that are reasonably necessary to determine the nature and scope of the President’s foreign financial ties and assess counterintelligence risks arising therefrom. Importantly, the documents and information sought by the subpoena are *specifically limited to those that show or may reveal “any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government.”* There can be no dispute that such documents are necessary for the Committee’s investigative needs and legislative purposes. The only two exceptions to this limitation are (1) documents sufficient to show ownership and control of, and any financial interests in, the accounts held by the Covered Parties, and (2) documents relating to transactions in the amount of \$10,000 or more. As to the former, such records are necessary to allow the Committee to assess the extent to which the President might be subject to a conflict of interest or otherwise influenced—based on how much ownership, control, or direct of an interest President Trump has in a particular account—should a foreign connection to that account be discovered. As to the latter, it would be impractical to limit records relating to transactions in the amount of \$10,000 or more to only those that reveal a foreign connection *on their face*. For example, it may not be possible to determine whether an individual transaction relates to foreign individuals, entities, or governments by the description of the transaction on the statement; further investigation will almost certainly be required to discover any foreign connection. Nevertheless, limiting the disclosure of individual transactions to those in the amount of \$10,000 or more is a reasonable means of minimizing the potential disclosure of any data that might not be directly relevant to the Committee’s investigation.

Some of the records sought from Deutsche Bank also would not constitute personal information of the President, but rather Deutsche Bank’s own internal reporting, analysis, and correspondence regarding, for example, any concerns the bank itself raised about foreign financial ties of the President. These categories of documents include documents related to any request for information issued or received by Deutsche Bank pursuant to Sections 314(a) or 314(b) of the USA PATRIOT Act; documents provided to, discussed with, or generated by any member of Deutsche Bank’s Management Board, Supervisory Board, or Reputational Risk Committee; documents generated or maintained in connection with Deutsche Bank’s Covered Client and Politically Exposed Persons programs; and documents generated or maintained in connection with any other internal Deutsche Bank review, study, investigation, summary, or analysis. Moreover, each of these categories of documents are specifically limited to those relating to any financial relationships, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government. President Trump can assert no legitimate personal privacy interests in such records, and they do not give rise to the same separation of powers concerns that animated the Supreme Court’s new test in *Trump v. Mazars*.

Furthermore, the timeframe for almost all of the documents and information covered by the subpoena—January 1, 2015 through the present—is reasonable and justified given the Committee’s investigative needs and legislative objectives. For almost all of this time period, President Trump was actively considering a run for the presidency, campaigning for it, or serving as president. Determining the nature and scope of his foreign financial ties during this time is obviously critical to the Committee’s investigation. The three exceptions to this time limitation

are also reasonable, and comprise:

- documents sufficient to show ownership and control of, and all financial interests in, each account. These types of documents, such as account applications and opening records, might otherwise fall outside the scope of the subpoena if the accounts were opened before the covered time period, *i.e.*, before January 1, 2015;
- KYC, due diligence, and other documents that show or may reveal any financial relationship, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government. These documents are highly pertinent to the Committee’s investigation regardless of when they were created or came into Deutsche Bank’s possession. For example, such documents could directly show any of the following foreign financial ties:
  - foreign-backed assets of any of the Covered Parties;
  - other assets of the Covered Parties in which a foreign actor has any financial interest;
  - assets acquired from any of the Covered Parties by a foreign actor;
  - debts owed directly or indirectly to a foreign actor by any of the Covered Parties;
  - loans held by any of the Covered Parties that are guaranteed by a foreign actor or in which a foreign actor otherwise has a financial interest; and
  - any possible money laundering by foreign actors involving accounts held by any of the Covered Parties.

Such documents might date from when an account was first opened, or might have come into the possession of, or been created by, Deutsche Bank at some time thereafter. Regardless of when such documents were created or came into the bank’s possession, however, they would directly reveal foreign financial ties of President Trump that give rise to the types of counterintelligence concerns that are the subject of the Committee’s investigation and legislative objectives. It is, therefore, reasonably necessary not to apply any time limitation to these types of documents; and

- documents provided to Deutsche Bank, or to which Deutsche Bank was granted access, by the Covered Parties in connection with the bank’s reported in-depth review of Trump’s personal and business finances in 2011, to the extent that they show or may reveal any financial relationship, transactions, or ties between any of the Covered Parties and any foreign individual, entity, or government. Based upon the Committee’s investigation, such documents are likely to have provided the most detailed picture of Trump’s finances—including any continuing foreign financial ties following a period of reportedly extensive foreign, particularly Russian, dealmaking for the Trump Organization<sup>53</sup>—to which Deutsche Bank had access in the period leading up to Trump’s

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<sup>53</sup> See, e.g., Michael Hirsh, *How Russian Money Helped Save Trump’s Business*, Foreign Policy (Dec. 21, 2018), <https://foreignpolicy.com/2018/12/21/how-russian-money-helped-save-trumps-business/> (describing the inflow of “overseas money” to the Trump Organization “in the form of new real-estate partnerships and the purchase of numerous Trump condos” in the late 2000s and quoting Donald Trump Jr. saying in 2008 that “Russians make up a pretty disproportionate cross-section of a lot of our assets”).

candidacy and presidency. These records are also necessary in order to provide an adequate baseline from which to assess any counterintelligence risks arising from subsequent changes to President Trump's finances during his candidacy and presidency. These records, therefore, are highly pertinent to the Committee's investigation and legislative objectives.

In sum, the Committee's subpoena to Deutsche Bank, as revised by the Committee, is narrowly tailored to cover only those documents and information reasonably necessary to support the Committee's oversight and legislative objectives.

***c. There Is Substantial Evidence of HPSCI's Valid Legislative Purpose***

*Third*, there is substantial and compelling evidence of HPSCI's legislative purpose in the record.<sup>54</sup> This evidence shows that since the Committee formally announced the scope of its investigation in February 2019, it has consistently identified its legislative and oversight objectives in seeking President Trump's financial records. The documents and information sought from Deutsche Bank will advance the Committee's oversight of the nation's foreign intelligence and counterintelligence authorities and activities, and consideration of legislation to address potential counterintelligence risks arising from the President's foreign financial ties.

As I explained in my May 2019 statement on the House Floor, HPSCI's investigation will "inform a wide range of legislation and appropriations decisions," including to "[r]equire financial transparency so that politicians can never again hide significant financial vulnerabilities from the American people; so that the American people are fully aware of any conflicts of interest that arise from financial entanglements of individuals responsible for our foreign policy; and so that foreign powers cannot use American corporations to secretly funnel donations or engage in money laundering."<sup>55</sup> I further explained that HPSCI's investigation will inform the Committee's oversight and its consideration of legislation to "[s]trengthen legal authorities and capabilities for our intelligence and law enforcement agencies to better track illicit financial flows, including through shell companies, real estate and other means; to better identify counterintelligence risks; and to expose interference by foreign actors."<sup>56</sup> Because of President Trump's lack of transparency surrounding his personal and corporate finances, the Committee requires the Deutsche Bank records to further its investigation of potential counterintelligence risks arising from the President's foreign financial ties and possible leverage that such ties could provide foreign powers over the President.

Congress has a long history of conducting independent investigations of counterintelligence risks and other threats to U.S. national security as part of its legitimate oversight and legislative functions. For example, in 1980, a Senate subcommittee examined counterintelligence threats arising from President Carter's business and personal relationship with his brother, whom Libya had attempted to influence through lucrative business deals in the

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<sup>54</sup> *Trump v. Mazars*, Slip Op. at 20.

<sup>55</sup> H3482 (daily ed. May 8, 2019).

<sup>56</sup> *Id.*

late 1970s, and the U.S. government’s handling of that counterintelligence threat.<sup>57</sup> Unlike President Trump, President Carter cooperated with the subcommittee’s investigation. As part of its investigation, the subcommittee identified “several legislative problems,” including “[a] possible need for improved procedures for coordination and centralized availability in the intelligence community of information gathered for either intelligence purposes or national-security related law enforcement and usable for the other purpose.”<sup>58</sup>

Other significant counterintelligence and national security investigations conducted directly by congressional committees include the Joint Congressional investigation of the Iran-Contra affair in the 1980s<sup>59</sup>, a House Select Committee’s investigation into China’s theft of U.S. nuclear secrets in the 1990s<sup>60</sup>, and HPSCI’s own investigation of the counterintelligence and security threats posed by Chinese telecom companies, like Huawei and ZTE, doing business in the United States in the 2000s.<sup>61</sup> Notably, each of these investigations led to further congressional oversight and/or legislative reforms. HPSCI’s investigation of the counterintelligence risks arising from Huawei and ZTE operating in the United States also spurred further counterintelligence analysis and activities undertaken by the Executive Branch.<sup>62</sup>

Most recently, SSCI conducted a bipartisan inquiry into Russia’s interference in the 2016 election—including an examination of the counterintelligence risks arising from links and contacts between the Trump campaign and Russia—which generated recommendations for additional oversight and legislative reforms.<sup>63</sup> Like HPSCI, SSCI’s power to investigate counterintelligence threats—including those involving the President—and the government’s response to such threats “derives from its jurisdiction over the Intelligence Community (IC) and Congress’s broad investigatory powers.”<sup>64</sup> As SSCI explained, “[a]n assessment of the IC’s response to the foreign intelligence threat from Russia, and by necessity the nature of that threat, fell within the Committee’s jurisdiction.”<sup>65</sup> Volume V of SSCI’s report specifically focused on

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<sup>57</sup> See S. Rep. No. 96-1015, at v (1980); see also *id.* at 60 (“Libyan officials went to considerable trouble and expense in establishing a relationship with Billy Carter,” including “not only through personal participation by important Libyan officials and expense-paid trips but by holding out the prospect of a highly lucrative oil commission arrangement and a large loan, as well as the actual transfers of large sums of money.”).

<sup>58</sup> *Id.* at 69.

<sup>59</sup> See S. Rep. No. 100-216, H. Rep. No. 100-433, at xv (1987) (“The Iran-Contra Affair, as it came to be known, carried such serious implications for U.S. foreign policy, and for the rule of law in a democracy, that the 100<sup>th</sup> Congress determined to undertake its own investigation of the Affair.”).

<sup>60</sup> See H. Rep. No. 105-851 (1999).

<sup>61</sup> See H. Permanent Select Comm. on Intelligence, *Investigative Report on the U.S. National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE* (2012), available at: <https://intelligence.house.gov/news/documentsingle.aspx?DocumentID=96>.

<sup>62</sup> See, e.g., FBI Counterintelligence Note: Update on Huawei Chinese Government-Subsidized Telecommunications Company (Mar. 2018), <https://publicintelligence.net/fbi-huawei-2018> (discussing HPSCI’s earlier counterintelligence investigation and subsequent developments, including steps taken by the Executive Branch).

<sup>63</sup> See SSCI Report, Vol. V, at 931-37 (setting forth SSCI’s recommendations for addressing the counterintelligence threats it identified during its investigation).

<sup>64</sup> *Id.* at 1.

<sup>65</sup> *Id.*

the “counterintelligence concerns surrounding the 2016 elections” and “address[ed] areas of oversight and potential legislative action for the Committee or Congress.”<sup>66</sup> Importantly, SSCI’s counterintelligence probe did not examine the counterintelligence risks arising from President Trump’s foreign financial ties, despite the urging of multiple SSCI members that the committee pursue this topic.<sup>67</sup>

HPSCI’s investigation of the counterintelligence risks arising from President Trump’s foreign financial ties, and consideration of potential oversight and legislation to address this threat, will fill in the gap left by SSCI’s investigation. The information provided by the subpoenaed Deutsche Bank records will inform the Committee’s oversight of the Intelligence Community, particularly those elements tasked with detecting and protecting against counterintelligence risks, to ensure that the government is appropriately responding to the threats. By providing the Committee with details of the President’s foreign financial interests—particular financial transactions, relationships, and the identities of foreign governments, banks and other entities, and individuals involved—the requested records will enable the Committee to examine whether, for instance, the FBI’s Counterintelligence Division is aware of the specific threats and how it is responding to them. For example, if the Deutsche Bank records reveal an undisclosed financial relationship between the President and a foreign company or individual, HPSCI could inquire whether the FBI was aware of that relationship; whether the FBI had adequately assessed the counterintelligence risk posed by the relationship; and how, if at all, is the FBI responding to the threat. The Committee could also request intelligence collected on the specific foreign entity or individual from the Intelligence Community to further its investigation.<sup>68</sup> If the government is not aware of, lacks adequate intelligence, or is not adequately responding to the identified threats, the Committee could then take oversight, legislative, budgetary, or other steps to address such an intelligence failure.

The Deutsche Bank records will also allow the Committee to draft legislation that responds to potential foreign financial conflicts of interest of President Trump that may improperly influence U.S. foreign policy. Such legislation could take the form of provisions in the annual Intelligence Authorization Act mandating that the Intelligence Community study and evaluate the intentions, methods, and efforts of particular foreign countries, entities, or individuals to exploit President Trump’s financial interests in order to shape U.S. policy to their benefit. Only by identifying the foreign countries, entities, and individuals with whom President Trump and his business have financial ties, the nature and scope of such ties, the methods and means used by any foreign actors to develop financial ties and gain leverage, and the potential for such conflicts to influence U.S. foreign policy, can Congress direct the Intelligence Community in an informed and effective manner to conduct new or enhanced collection and

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<sup>66</sup> *Id.* at 1-2.

<sup>67</sup> *See supra* note 2.

<sup>68</sup> *See* 50 U.S.C. § 3092 (“[T]he heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, . . . and (2) furnish the congressional intelligence committees any information or material concerning intelligence activities (including the legal basis under which the intelligence activity is being or was conducted), . . . which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.”).

analysis, or allocate additional resources to coverage of particular foreign countries, entities, or individuals.

Critically, if HPSCI's investigation produces evidence that any of President Trump's national security policies—such as his various controversial actions related to Russia, China, Saudi Arabia, and Turkey—are, in fact, the product of improper financial influence, Congress could enact legislation to blunt the effects of the President's conflicts of interest. For example, Congress could use its power of the purse to prohibit the use of any appropriated funds to carry out the tainted policies. Congress could also pass legislation requiring the Administration to undertake countermeasures that President Trump might have improperly resisted as a result of his effort to curry favor with foreign governments, such as additional foreign sanctions against specific foreign governments, entities, and individuals.

HPSCI's investigation and the requested records from Deutsche Bank will also help shape legislation currently being considered by the House to respond to some of the worst abuses of the presidency by Donald Trump—and prevent them from being repeated by future presidents. This includes legislation that would require candidates for federal office to disclose certain interactions with, or ties to, foreign actors. The records that the Committee is seeking from Deutsche Bank will help Congress identify potential weak spots in such proposed reforms and preemptively close loopholes. For example, the records could contain evidence of particular financial relationships or arrangements between President Trump or his company and foreign actors that pose counterintelligence concerns, but that the President was not required to disclose under existing laws. Depending on the exact nature of Trump's foreign financial conflicts, Congress could craft legislation that requires presidential candidates to produce specific financial information and disclose particular types of financial ties to enable the Intelligence Community and federal law enforcement to determine whether a candidate's foreign financial interests might expose him or her to foreign leverage. Likewise, HPSCI's investigation will help inform legislation to improve threat assessments relating to foreign interference in advance of U.S. elections. For example, a bill has been introduced in the House that would require an intelligence election-interference threat assessment before every federal general election.<sup>69</sup> HPSCI's investigation could help shape this legislation to ensure that the risk assessments it would require include an assessment of foreign countries' efforts to exploit particular types of foreign financial ties.

It bears noting that the legislative objectives of the Committee's investigation and Deutsche Bank subpoena will remain relevant regardless of whether President Trump is re-elected in November 2020. Although any immediate counterintelligence risks posed by President Trump's foreign financial conflicts will have been removed, the need for informed oversight of the Intelligence Community's handling of the threat of foreign financial leverage and for remedial legislation will remain salient. For example, Congress may still wish to defund—or enact legislative countermeasures to reverse—policy decision by President Trump that were tainted by foreign financial conflicts of interest or the poisonous fruits of foreign leverage.

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<sup>69</sup> See H.R. 1474, § 2, 116th Cong. (2019).

***d. HPSCI's Subpoena Will Not Significantly Burden the President***

*Fourth*, President Trump will, at most, be minimally burdened by HPSCI's subpoena to Deutsche Bank.<sup>70</sup> The subpoena is directed at a third-party financial institution, not the President, his business, his trust, or his immediate family directly. Furthermore, the subpoena seeks only personal financial information, not official records or information from the President or the Executive Branch. In fact, some of the records sought from Deutsche Bank are the bank's own internal documents, reports, and communications, which do not constitute personal information of the President. The subpoena seeks only non-privileged business records unrelated to the President's official duties, not documents or information over which the President could assert any legitimate claim of executive privilege. Moreover, many, if not all, of the documents sought by HPSCI have already been disclosed, including to the Manhattan District Attorney's Office<sup>71</sup> and, with respect to any Suspicious Activity Reports (SARs), to FinCEN, thereby diminishing any burden in collecting or reviewing the documents or interest in keeping the records from Congress.

In short, the subpoena does not require President Trump to do much of anything. To the extent the President might attempt to claim that responding to the subpoena and the related litigation will require his time and attention, the *Mazars* court reaffirmed that mere "time and attention stemming from judicial process and litigation, without more, generally do not cross constitutional lines."<sup>72</sup> As demonstrated above, HPSCI is not using its subpoena to Deutsche Bank to obtain "institutional advantage," but rather to advance its legitimate legislative and oversight objectives. Accordingly, any separation of powers concerns here are substantially outweighed by the "significant legislative interests of Congress" in obtaining the financial records of the President that HPSCI has sought from Deutsche Bank.<sup>73</sup>

**4. Conclusion**

The Committee requires President Trump's personal and corporate financial records from Deutsche Bank set forth in its narrowed subpoena in order to investigate the counterintelligence risks arising from the President's foreign financial ties, including whether foreign powers possess financial leverage over the President. The Committee's investigation remains urgent and necessary, particularly in light of the apparent lack of any such inquiry by the Executive Branch. In response to the Supreme Court's decision in *Trump v. Mazars*, the Committee will voluntarily narrow its subpoena so that it may accelerate resolution of this matter and ensure the Committee's valid legislative objectives are met without further delay. These documents meet all the requirements of the Court's new test. And they are critical to the Committee's ability to

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<sup>70</sup> See *Trump v. Mazars*, Slip Op. at 20.

<sup>71</sup> See David Enrich et al., *Trump's Bank Was Subpoenaed by N.Y. Prosecutors in Criminal Inquiry*, N.Y. Times (Aug. 5, 2020), <https://www.nytimes.com/2020/08/05/nyregion/trump-taxes-vance-deutsche-bank.html> ("Deutsche Bank complied with the subpoena. Over a period of months last year, it provided Mr. Vance's office with detailed records, including financial statements and other materials that Mr. Trump had provided to the bank as he sought loans . . .").

<sup>72</sup> *Trump v. Mazars*, Slip Op. at 20.

<sup>73</sup> *Id.* at 18.



conduct appropriate oversight of the Intelligence Community and to consider the legislation outlined above to respond to potential counterintelligence risks posed by President Trump's foreign financial ties.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam B. Schiff". The signature is fluid and cursive, with the first name "Adam" and last name "Schiff" being the most prominent parts.

Adam B. Schiff  
Chairman