To improve laws relating to money laundering, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Warner (for himself, Mr. Cotton, Mr. Jones, and Mr. Rounds) introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To improve laws relating to money laundering, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Improving Laundering
5 Laws and Increasing Comprehensive Information Tracking
6 of Criminal Activity in Shell Holdings Act” or the “IL-
7 LICIT CASH Act”.

8 SEC. 2. PURPOSES.

9 The purposes of this Act are—
(1) to improve coordination among the agencies tasked with administering anti-money laundering and counter-financing of terrorism requirements, the agencies that examine financial institutions for compliance with those requirements, Federal law enforcement agencies, the intelligence community, and financial institutions;

(2) to establish beneficial ownership reporting requirements to improve transparency concerning corporate structures and insight into the flow of illicit funds through such structures and discourage the use of shell corporations as a tool to disguise illicit funds;

(3) to modernize anti-money laundering and counter-financing of terrorism laws to adapt the government and private sector response to new threats;

(4) to encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and terrorist financing; and

(5) to reinforce that the anti-money laundering and counter-financing of terrorism policies, procedures, and controls of financial institutions shall be risk-based.
SEC. 3. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term “affiliate” means an entity that controls, is controlled by, or is under common control with another entity.

(2) BANK SECRECY ACT.—The term “Bank Secrecy Act” means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(C) subchapter II of chapter 53 of title 31, United States Code.

(3) DIRECTOR.—The term “Director” means the Director of FinCEN.


(5) FINCEN.—The term “FinCEN” means the Financial Crimes Enforcement Network of the Department of the Treasury.

(6) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given the term in section 5312 of title 31, United States Code.
(7) Secretary.—The term “Secretary” means Secretary of the Treasury.

TITLE I—STRENGTHENING THE ABILITY OF FINCEN TO DETERMINE AND IMPLEMENT AML-CFT POLICY

SEC. 101. ESTABLISHMENT OF NATIONAL EXAM AND SUPERVISION PRIORITIES.

(a) Declaration of Purpose.—Subchapter II of chapter 53 of title 31, United States Code, is amended by striking section 5311 and inserting the following:

“§ 5311. Declaration of purpose

“It is the purpose of this subchapter (except section 5315) to—

“(1) prevent the laundering of money and the financing of terrorism through the establishment by financial institutions of risk-based programs to combat money laundering and terrorist financing;

“(2) track money that has been sourced through criminal activity or is intended to promote criminal or terrorist activity;

“(3) protect the integrity of the financial system and the security of the United States;

“(4) establish a framework for information sharing between financial institutions, FinCEN, and
law enforcement to identify, stop, and apprehend
money launderers and those who finance terrorists;
and
“(5) require certain reports or records where
they have a high degree of usefulness in criminal,
tax, or regulatory investigations or proceedings, or
in the conduct of intelligence or counterintelligence
activities, including analysis, to protect against ter-
rorism.”.

(b) ANTI-MONEY LAUNDERING PROGRAMS.—Section
5318(h)(2) of title 31, United States Code, is amended—

(1) by striking “The Secretary” and inserting
the following:

“(A) IN GENERAL.—The Secretary”; and

(2) by adding at the end the following:

“(B) FACTORS.—In establishing rules, reg-
ulations and guidance under subparagraph (A),
and in supervising and examining compliance
with those rules, the Secretary of the Treasury,
and the Federal functional regulators, shall
take into account the following:

“(i) Financial institutions are spend-
ing private dollars for a public and private
benefit.
“(ii) The extension of financial services to the underbanked, in the United States and abroad is a policy goal of the United States.

“(iii) Government access to the sensitive personal information of financial consumers raises consumer privacy issues.

“(iv) Effective anti-money laundering and combating the financing of terrorism programs generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement with the identification and prosecution of persons attempting to launder money and other illicit activity through the financial system.

“(v) Anti-money laundering and combating the financing of terrorism programs described in paragraph (1) should be risk-based, including that more financial institution attention and resources should be directed at higher risk customers and activity given a financial institution’s risk profile than lower risk customers and activities.”
(c) **Financial Crimes Enforcement Network.**—

Section 310(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(K) Establish annual, government-wide anti-money laundering and counter-terrorist financing examination and supervision priorities for the maintenance of risk-based policies, procedures, and controls designed to detect and report financial criminal activities.

“(L) Communicate regularly with financial institutions, and Federal functional regulators that examine financial institutions for compliance with subchapter II of chapter 53 and regulations issued thereunder, after consultation with law enforcement to explain the government’s anti-money laundering and counter-terrorist financing exam and supervision priorities, and give and receive feedback from financial institutions regarding the matters addressed in subchapter II of chapter 53 and regulations issued thereunder.

“(M) Maintain a money laundering and terrorist financing investigations team comprised of financial experts capable of identifying, tracking, and tracing financial crime net-
works and identifying emerging threats to conduct and support Federal civil and criminal investigations.

“(N) Maintain an emerging technology team comprised of technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions counter money laundering and terrorist financing, and assist in the evaluation and approval of software under section 301 of the ILLICIT CASH Act.”.

(d) ANNUAL PRIORITIES.—Not later than 270 days after the date of enactment of this Act, and annually thereafter, the Secretary, acting through the Office of Terrorism and Financial Intelligence and FinCEN, after consultation with relevant Federal law enforcement agencies, the Federal functional regulators, the national security agencies, and any other Federal departments and agencies that the Secretary determines appropriate, shall establish and make public its priorities for anti-money laundering and counter terrorist financing policy.

(e) SUPERVISION AND EXAMINATION.—The incorporation by financial institutions of the priorities established under subsection (d) into the risk-based programs estab-
lished by those financial institutions to meet obligations under the Bank Secrecy Act, the USA PATRIOT Act (Public Law 107–56; 115 Stat. 272), and other anti-money laundering and counter terrorist financing laws and regulations shall form a key basis, along with other relevant risk factors, on which the financial institutions are supervised and examined for compliance with those obligations.

SEC. 102. FINCEN COMPETITIVE COMPENSATION.

Section 310 of title 31, United States Code, is amended by adding at the end the following:

“(e) APPOINTMENTS.—

“(1) IN GENERAL.—The Director may fix the number of, and appoint and direct, all employees of FinCEN, in accordance with the applicable provisions of title 5, United States Code.

“(2) WAIVER AUTHORITY.—

“(A) IN GENERAL.—In making any appointment under paragraph (1), the Director may waive the requirements of chapter 33 of title 5, United States Code, and the regulations implementing such chapter, to the extent necessary to appoint employees on terms and conditions that are consistent with those set forth
in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)), while providing for—

“(i) fair, credible, and transparent methods of establishing qualification requirements for, recruitment for, and appointments to positions;

“(ii) fair and open competition and equitable treatment in the consideration and selection of individuals to positions; and

“(iii) fair, credible, and transparent methods of assigning, reassigning, detailing, transferring, and promoting employees.

“(B) VETERANS PREFERENCES.—In implementing this paragraph, the Director shall comply with the provisions of section [2302(b)(11)], regarding veterans’ preference requirements, in a manner consistent with that in which such provisions are applied under chapter 33 of title 5, United States Code. The authority under this paragraph to waive the requirements of that chapter 33 shall expire 5 years after the date of enactment of this subsection.
“(3) Compensation.—Notwithstanding any otherwise applicable provision of title 5, United States Code, concerning compensation, including the provisions of chapter 51 and chapter 53, the following provisions shall apply with respect to employees of FinCEN:

“(A) The rates of basic pay for all employees of FinCEN may be set and adjusted by the Director.

“(B) The Director shall at all times provide compensation (including benefits) to each class of employees that, at a minimum, are comparable to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

“(C) All such employees shall be compensated (including benefits) on terms and conditions that are consistent with the terms and conditions set forth in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)).

“(4) Authorization of Appropriations.—There is authorized [X] for fiscal year 2019 to carry out this section.”.
SEC. 103. CREATION OF AML/CFT INVESTIGATOR HUB AND TECHNOLOGY TEAM.

Section 310 of title 31, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:

“(f) INVESTIGATIVE EXPERTS.—

“(1) IN GENERAL.—FinCEN shall hire and maintain a team of financial experts capable of identifying, tracking, and tracing money laundering and terrorist financing networks in order to conduct and support civil and criminal anti-money laundering and combating the financing-of-terrorism investigations conducted by the United States Government.

“(2) INVESTIGATIVE RESOURCE HUB.—FinCEN shall, upon a reasonable request from a United States Government agency, require financial experts to, in collaboration with the requesting agency, investigate the potential anti-money laundering and countering-the-financing-of-terrorism activity that prompted the request.

“(3) STAFFING.—FinCEN should hire or retain as reimburse full time employees, including trained investigative personnel accorded criminal authority and experience in the Bank Secrecy Act to perform the functions contemplated by this subsection, in-
including audits and inspections of the access and use of Bank Secrecy Act data.

“(g) TECHNOLOGY EXPERTS.—FinCEN shall hire and maintain a team of technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions counter money laundering and terrorist financing efforts, and assist in the evaluation and approval of software under section 301 of the ILLICIT CASH Act.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is appropriated $50,000,000 for fiscal year 2019 to carry out this section.”.

SEC. 104. ESTABLISHMENT OF FINCEN FINANCIAL INSTITUTION LIAISON.

Section 310 of title 31, United States Code, as amended by sections 102 and 103 of this Act, is amended by adding at the end the following:

“(i) OFFICE OF THE FINANCIAL INSTITUTION LIAISON ESTABLISHED.—There is established within FinCEN the Office of the Financial Institution Liaison (in this subsection referred to as the ‘Office’).

“(1) IN GENERAL.—The head of the Office shall be the Liaison, who shall—

“(A) report directly to the Director; and
“(B) be appointed by the Director, from among individuals having experience in anti-money laundering program examinations, supervision and enforcement, from the perspective of financial institutions.

“(2) COMPENSATION.—The annual rate of pay for the Liaison shall be equal to the highest rate of annual pay for other senior executives who report to the Director.

“(3) LIMITATION ON SERVICE.—An individual who serves as the Liaison may not be employed by FinCEN—

“(A) during the 2-year period ending on the date of appointment as Liaison; or

“(B) during the 5-year period beginning on the date on which the person ceases to serve as the Liaison.

“(4) STAFF OF OFFICE.—The Liaison, after consultation with the Director, may retain or employ independent counsel, research staff, and service staff, as the Liaison deems necessary to carry out the functions, powers, and duties of the Office.

“(5) FUNCTIONS OF THE LIAISON.—The Liaison shall—
“(A) receive feedback from financial institutions regarding their examinations under the Bank Secrecy Act and communicate that feedback to FinCEN and the Federal functional regulators;

“(B) help promote coordination and consistency of supervisory guidance from FinCEN and the Federal functional regulators regarding subchapter II of chapter 53 of title 31, United States Code (commonly known as the ‘Bank Secrecy Act’);

“(C) act as a liaison between financial institutions and their Federal functional regulators with respect to matters involving the Bank Secrecy Act and regulations issued thereunder;

“(D) establish safeguards to maintain the confidentiality of communications between the persons described in subparagraph (B) and the Liaison;

“(E) analyze the potential impact on financial institutions of proposed regulations of FinCEN; and

“(F) to the extent practicable, propose to FinCEN changes in the regulations, guidance,
or orders of FinCEN and to Congress any legis-
lative, administrative, or personnel changes that
may be appropriate to mitigate problems identi-
fied under this paragraph.

“(6) Access to documents.—FinCEN shall,
to the extent practicable and consistent with appro-
priate safeguards for sensitive enforcement related,
pre-decisional, or deliberative information, ensure
that the Liaison has full access to the documents of
FinCEN, as necessary to carry out the functions of
the Office.

“(7) Annual reports.—

“(A) In general.—Not later than June
30 of each year after 2019, the Liaison shall
submit to the Committee on Banking, Housing,
and Urban Affairs of the Senate and the Com-
mittee on Financial Services of the House of
Representatives a report on the objectives of
the Liaison for the following fiscal year and the
activities of the Liaison during the immediately
preceding fiscal year.

“(B) Contents.—Each report required
under subparagraph (A) shall include—

“(i) appropriate statistical information
and full and substantive analysis;
“(ii) information on steps that the Liaison has taken during the reporting period to address feedback received by financial institutions regarding their examinations;

“(iii) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by financial institutions; and

“(iv) any other information, as determined appropriate by the Liaison.

“(C) SENSITIVE INFORMATION.—Notwithstanding subparagraph (D), FinCEN shall review the report listed in subparagraph (A) to ensure the report does not include sensitive information.

“(D) INDEPENDENCE.—Each report required under this subsection shall be provided directly to the Committees listed in subparagraph (A) without any prior review or comment from FinCEN, the Director, any other officer or employee of the Commission, any Federal functional regulator, or the Office of Management and Budget.
“(E) CONFIDENTIALITY.—No report required under subparagraph (A) may contain confidential information.”

SEC. 105. INTERAGENCY AML-CFT PERSONNEL ROTATION PROGRAM.

(a) PURPOSE.—The purpose of this section is to increase the efficiency and effectiveness of the Federal Government by fostering greater interagency experience among Federal Government personnel on anti-money laundering and counter-terrorist financing matters.

(b) DEFINITION.—In this section, the term “AML-CFT Interagency Community of Interest” means the positions in the Federal Government that, as determined by the Secretary, the Federal functional regulators, the Department of Justice, the Federal Bureau of Investigation, and such other agencies as the Secretary determines to be appropriate—

(1) includes positions within FinCEN, the Department of the Treasury, the Department of Justice, the Federal Bureau of Investigation, and, if agreed to by the heads of such agencies, positions within any Federal functional regulator;

(2) as a group, are positions within multiple agencies of the Federal Government; and
(3) have significant responsibility for the same substantive, functional, or regional subject area related to anti-money laundering or countering the financing of terrorism that benefits from the integration of the positions and activities in that area across multiple agencies.

(e) Program Established.—

(1) In General.—Not later than 270 days after the date of the enactment of this Act, the Secretary of the Treasury and representatives of the Federal functional regulators, the Department of Justice, the Federal Bureau of Investigation, and such other agencies as the Secretary determines to be appropriate, shall develop and issue an AML-CFT personnel strategy providing policies, processes, and procedures for a program for the interagency rotation of personnel among positions within AML-CFT Interagency Communities of Interest.

(2) Requirements.—The strategy required by paragraph (1) shall, at a minimum—

(A) identify specific AML-CFT Interagency Communities of Interest for the purpose of carrying out the program;

(B) designate agencies to be included or excluded from the program;
(C) define categories of positions to be covered by the program;

(D) establish processes by which the heads of relevant agencies may identify—

(i) positions in AML-CFT Interagency Communities of Interest that are available for rotation under the program; and

(ii) individual employees who are available to participate in rotational assignments under the program; and

(E) establish procedures for the program, including—

(i) any minimum or maximum periods of service for participation in the program;

(ii) any training and education requirements associated with participation in the program;

(iii) any prerequisites or requirements for participation in the program; and

(iv) appropriate performance measures, reporting requirements, and other accountability devices for the evaluation of the program.
(d) PROGRAM REQUIREMENTS.—The policies, processes, and procedures established pursuant to subsection (c) shall, at a minimum, provide that—

(1) during each of the first 4 fiscal years after the fiscal year in which this Act is enacted—

(A) the interagency rotation program shall be carried out in at least 4 AML-CFT Inter-agency Communities of Interest; and

(B) not fewer than 20 employees in the Federal Government shall be assigned to participate in the interagency personnel rotation program;

(2) the participation of an employee in the interagency rotation program shall require the consent of the head of the agency and shall be voluntary on the part of the employee;

(3) employees selected to perform interagency rotational service are selected in a fully open and competitive manner that is consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, unless the AML-CFT Interagency Community of Interest position is otherwise exempt under another provision of law;
(4) an employee performing service in a position in another agency pursuant to the program established under this section shall be entitled to return, within a reasonable period of time after the end of the period of service, to the position held by the employee, or a corresponding or higher position, in the employing agency of the employee;

(5) an employee performing interagency rotational service shall have all the rights that would be available to the employee if the employee were detailed or assigned under a provision of law other than this section from the agency employing the employee to the agency in which the position in which the employee is serving is located; and

(6) an employee participating in the program shall receive performance evaluations from officials of the employing agency of the employee that are based on input from the supervisors of the employee during the service of the employee in the program that are—

(A) based primarily on the contribution of the employee to the work of the agency in which the employee performed the service; and

(B) provided the same weight in the receipt of promotions and other rewards by the
employee from the employing agency as performance evaluations for service in the employing agency.

(e) Selection of Individuals to Fill Senior Positions.—The head of each agency participating in the program established pursuant to subsection (c) shall ensure that, in selecting individuals to fill senior positions within an AML-CFT Interagency Community of Interest, the agency gives a strong preference to individuals who have performed interagency rotational service within the AML-CFT Interagency Community of Interest pursuant to such program.

**TITLE II—IMPROVING AML-CFT COMMUNICATION, OVERSIGHT, AND PROCESSES**

**SEC. 201. ANNUAL REPORTING REQUIREMENTS.**

(a) Annual Report.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Attorney General, in consultation with Federal law enforcement agencies and the Director of National Intelligence, shall, to the extent practicable at the discretion of the Attorney General, provide to the Secretary statistics, metrics, and other information on the use of data derived from financial institutions reporting under this title, including—
(1) the extent to which such data is used for terrorism versus nonterrorism related investigations and, with respect to such nonterrorism related investigations, the most common types of laws to which such investigations relate;

(2) the frequency with which such data contains actionable information that leads to further law enforcement procedures, including the use of a subpoena, warrant, or other legal process;

(3) calculations of the time between when data is reported by a financial institution and when it is used by law enforcement, whether through the use of a subpoena, warrant or other legal process;

(4) the value of the transactions associated with such data;

(5) the number of persons identified by such data; and

(6) information on the extent to which arrests, indictments, convictions, or plea bargains of actors result from the use of such data.

(b) QUINQUENNIAL REPORT.—Every 5 years after the date of enactment of this Act, the report described in subsection (a) shall include a section describing the use of data derived from financial institution reporting under this subchapter over the previous five years, including de-
scribing long-term trends and providing long-term statistics, metrics and other information.

(c) TRENDS, PATTERNS AND THREATS.—The report described in subsection (a) and the section described in subsection (b) shall contain a description of retrospective trends and emerging patterns and threats in money laundering and terrorist financing, including national and regional trends, patterns and threats, and trends, patterns and threats relevant to such classes of financial institutions that the Attorney General determines appropriate.

(d) USE OF REPORT INFORMATION.—The Secretary shall use the information reported under subsections (a), (b), and (c)—

(1) to help assess the usefulness of Bank Secrecy Act reporting to law enforcement;

(2) to enhance feedback and communications with financial institutions and other entities subject to Bank Secrecy Act requirements, including through providing more detail in the reports produced under section 314(d) of the USA PATRIOT Act (31 U.S.C. 5311 note);

(3) to assist FinCEN in considering revisions to the reporting requirements promulgated under section 314(d) of the USA PATRIOT Act (31 U.S.C. 5311 note); and
(4) for any other purpose the Secretary determines is appropriate.

SEC. 202. LAW ENFORCEMENT FEEDBACK ON SUSPICIOUS ACTIVITY REPORTS.

(a) FEEDBACK.—The staff of FinCEN shall meet periodically with the person designated under section 5318(h)(1) of title 31, United States Code, by each financial institution to review the suspicious activity reports filed by the financial institution during the previous period and discuss trends in suspicious activity observed by FinCEN.

(1) FEEDBACK REQUIRED.—The staff of FinCEN shall disclose to the person designated under section 5318(h)(1) of title 31, United States Code, what actions have been taken, if any, by Federal or State law enforcement with respect to the suspicious activity reports filed by the financial institution during the previous year.

(2) EXCEPTION FOR ONGOING INVESTIGATIONS.—FinCEN shall not be required to disclose to the financial institution any information under subsection (a)(1) that could jeopardize an ongoing investigation.

(3) MAINTENANCE OF STATISTICS.—FinCEN shall keep records of all such actions taken under
paragraph (1) to assist with the production of the
reports described in section 201 and for other pur-
poses.

(b) COORDINATION WITH FEDERAL FUNCTIONAL
REGULATORS.—The meeting described in (a) shall be con-
ducted in the presence of the Federal functional regulator
of the financial institution and, if applicable, during the
financial regularly scheduled examination of the financial
institution by the Federal functional regulator.

(c) COORDINATION WITH DEPARTMENT OF JUSTICE.—The information disclosed by FinCEN under sub-
section (a) shall include information from the Department
of Justice regarding its review and use of suspicious activ-
ity reports filed by the financial institution during the pre-
vious year and any trends in suspicious activity observed
by the Department of Justice, and such information shall
include information specifically relevant to reports filed by
such financial institution in the previous year and other
information tailored to such financial institution.

SEC. 203. STREAMLINING REQUIREMENTS FOR CURRENCY
TRANSACTION REPORTS AND SUSPICIOUS
ACTIVITY REPORTS.

(a) REVIEW.—The Secretary, in consultation with
Federal law enforcement agencies, the Director of Na-
tional Intelligence, and the Federal functional regulators,
and other relevant stakeholders, shall undertake a formal review of the current financial institution reporting requirements, including the processes used to submit reports, under the Bank Secrecy Act, regulations implementing that Act, and related guidance, and make changes to them to reduce unnecessarily burdensome regulatory requirements and ensure that the information provided is of a high degree of usefulness to law enforcement, as set forth in section 5311 of title 31, United States Code.

(b) CONTENTS.—The review required under subsection (a) shall include a study of—

(1) whether the circumstances under which a financial institution determines whether to file a continuing suspicious activity report, including insider abuse, or the processes followed by a financial institution in determining whether to file a continuing suspicious activity report, or both, can be narrowed;

(2) whether different thresholds should apply to different categories of activities;

(3) the fields designated as critical on the suspicious activity report form and whether the number of fields should be reduced;

(4) the categories, types, and characteristics of suspicious activity reports and currency transaction
reports that are of the greatest value to, and that
best support, investigative priorities of law enforce-
ment and national security personnel;

(5) the increased use or expansion of exemption
provisions to reduce currency transaction reports
that are of little or no value to law enforcement ef-
forts;

(6) the most appropriate ways to promote fi-
nancial inclusion and address the adverse con-
sequences of financial institutions de-risking entire
categories of high-risk relationships, including char-
ities, embassy accounts, money service businesses, as
defined in section 1010.100(ff) of title 31, Code of
Federal Regulations, and correspondent banks;

(7) the current financial institution reporting
requirements under the Bank Secrecy Act and regu-
lations and guidance implementing that Act;

(8) whether the process for the electronic sub-
mission of reports could be improved for both finan-
cial institutions and law enforcement, including by
allowing greater integration between financial insti-
tution systems and the electronic filing system to
allow for automatic population of report fields and
the automatic submission of transaction data for
suspicious transactions;
(9) the appropriate protection of personal privacy; and

(10) any other item the Secretary determines is appropriate.

(c) Public Comment.—The Secretary shall solicit public comment as part of the review contemplated in subsection (a).

(d) Report.—Not later than the end of the 1 year period beginning on the date of the enactment of this Act, the Secretary, in consultation with law enforcement, shall submit to Congress a report that contains all findings and determinations made in carrying out the review required under subsection (a) and propose rulemakings to implement their findings.

SEC. 204. CURRENCY TRANSACTION REPORT AND SUSPICIOUS ACTIVITY REPORT THRESHOLDS REVIEW.

(a) Review of Thresholds for Certain Currency Transaction Reports.—The Secretary of the Treasury, in consultation with the Attorney General and the Director of National Intelligence, shall study and determine whether the dollar thresholds contained in section 5313 of title 31, United States Code, section 5331 of title 31, United States Code, 5318(g) of title 31, United States
Code, including regulations issued thereunder, should be adjusted.

(b) CONSIDERATIONS.—In making the determinations described in subsection (a), the Secretary of the Treasury and the Attorney General shall consider—

(1) the effects on law enforcement and intelligence from adjusting the thresholds;

(2) the costs likely to be incurred or saved by financial institutions;

(3) the effects on privacy; and

(4) any other factor the Secretary, Director of National Intelligence, and the Attorney General considers relevant.

(e) PUBLIC COMMENT.—The Secretary shall solicit public comment as part of the review contemplated in subsection (a).

(d) REPORT AND RULEMAKINGS.—Not later than the end of the 1 year period beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General and the intelligence community, shall publish a report on the findings from the review described in subsection (a) and propose rulemakings to implement the findings.
SEC. 205. REVIEW OF REGULATIONS AND GUIDANCE.

(a) IN GENERAL.—The Secretary and the Federal functional regulators in consultation with Federal law enforcement agencies and the Director of National Intelligence, shall each undertake a formal review of the regulations implementing the Bank Secrecy Act, and guidance related to that Act, to identify those regulations and guidance that may be outdated, redundant, unnecessarily burdensome, or otherwise do not promote a risk-based anti-money laundering compliance and countering the financing of terrorism regime for financial institutions, and make appropriate changes to those regulations and guidance.

(b) PUBLIC COMMENT.—The Secretary shall solicit public comment as part of the review required under subsection (a).

(e) REPORT.—Not later than the end of the 1 year period beginning on the date of the enactment of this Act, the Secretary, the Federal functional regulators, and the Internal Revenue Service, shall submit to Congress one or more reports that contain all findings and determinations made in carrying out the review required under subsection (a).

SEC. 206. PENALTY COORDINATION.

(a) COORDINATION ON PENALTIES.—Prior to any Federal functional regulator, FinCEN, or the Department
of Justice, including any organizational unit thereof, issuing a fine, civil money penalty, or other enforcement order or action, including on consent or pursuant to a settlement agreement, with respect to an entity to address any actual or alleged violation of any provision of the Bank Secrecy Act or section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)) or any unsafe or unsound practice that resulted in any such actual or alleged violation, such Federal department or agency shall endeavor to coordinate its order or action with all relevant Federal departments and agencies and State law enforcement and financial regulators contemplating an order or action with respect to the same or similar conduct to attempt to develop a single comprehensive or coordinated order or action and to avoid duplicative fines, penalties, and other orders or actions.

(b) EXCEPTION.—Subsection (a) shall not apply if—

(1) a Federal or State financial regulator determines that complying with subsection (a) is impractical for safety and soundness reasons; or

(2) a Federal law enforcement or a national security agency determines that complying with subsection (a) is impractical for Federal law enforcement or national security reasons or for purposes related to the administration of the Bank Secrecy Act.
(c) Rule of Construction.—Nothing in this section shall be construed as limiting the amount of a fine or the type of penalty that may be issued by any Federal or State entity with authority to issue a fine or penalty.

(d) No Rights.—Nothing in this section provides persons with any rights or privileges, including a private right of action or an affirmative defense, and no determination or failure to make a determination by any Federal entity or officer under this section shall be reviewable by a court of law.

SEC. 207. COOPERATION WITH LAW ENFORCEMENT.

(a) Safe Harbor With Respect to Keep Open Letters.—

(1) In General.—

(A) Amendment to title 31.—Subtitle II of chapter 53 of title 31, United States Code, is amended by adding at the end of subdivision (a) the following:

§ 5333. Safe harbor with respect to keep open letters

“(a) In General.—With respect to a customer account or customer transaction of a financial institution, if a Federal, State, Tribal, or local law enforcement agency requests, in writing, the financial institution to keep that account or transaction open—
“(1) the financial institution shall not be liable under this subchapter for maintaining that account or transaction consistent with the parameters of the request; and

“(2) no Federal or State department or agency may take any adverse supervisory action under this subchapter with respect to the financial institution for maintaining that account or transaction consistent with the parameters of the request.

“(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

“(1) from preventing a Federal or State department or agency from verifying the validity of a written request described in subsection (a) with the Federal, State, Tribal, or local law enforcement agency making that written request; or

“(2) to relieve a financial institution from complying with any reporting requirements, including the reporting of suspicious transactions under section 5318(g).

“(c) LETTER TERMINATION DATE.—For the purposes of this section, any written request described in subsection (a) shall include a termination date after which that request shall no longer apply.”.
(B) AMENDMENT TO PUBLIC LAW 91–508.—Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended by adding at the end the following:

“§ 130. Safe harbor with respect to keep open letters

“(a) DEFINITION.—In this section, the term ‘financial institution’ has the meaning given the term in section 123(b).

“(b) SAFE Harbor.—With respect to a customer account or customer transaction of a financial institution, if a Federal, State, Tribal, or local law enforcement agency requests, in writing, the financial institution to keep that account or transaction open—

“(1) the financial institution shall not be liable under this chapter for maintaining that account or transaction consistent with the parameters of the request; and

“(2) no Federal or State department or agency may take any adverse supervisory action under this chapter with respect to the financial institution for maintaining that account or transaction consistent with the parameters of the request.

“(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed—
“(1) from preventing a Federal or State department or agency from verifying the validity of a written request described in subsection (b) with the Federal, State, Tribal, or local law enforcement agency making that written request; or

“(2) to relieve a financial institution from complying with any reporting requirements, including the reporting of suspicious transactions under section 5318(g) of title 31, United States Code.

“(d) LETTER TERMINATION DATE.—For the purposes of this section, any written request described in subsection (b) shall include a termination date after which that request shall no longer apply.”.

(2) CLERICAL AMENDMENTS.—

(A) TITLE 31.—The table of contents for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5332 the following:

“5333. Safe harbor with respect to keep open letters.”.

(B) PUBLIC LAW 91–508.—The table of contents for chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended by adding at the end the following:

“130. Safe harbor with respect to keep open letters.”.

(b) DETERMINATION OF BUDGETARY EFFECTS.— The budgetary effects of this section, for the purpose of
complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**TITLE III—MODERNIZATION OF AML/CFT SYSTEM**

**SEC. 301. APPROVED TRANSACTION MONITORING SOFTWARE.**

(a) Amendment to the Bank Secrecy Act.—Chapter 53 of title 31, United States Code, as amended by section 101 of this Act, is amended by adding at the end the following:

“SEC. 5334. APPROVED TRANSACTION MONITORING SOFTWARE.

“It is the purpose of this section to—

“(1) encourage the development and deployment of transaction monitoring software, including software that uses artificial intelligence and other cutting-edge processes;

“(2) establish a process by which new transaction monitoring software that meets requirements
established by this section and by FinCEN can be approved; and

“(3) establish feedback mechanisms so that the accuracy of transaction monitoring software can be improved over time.”.

(b) DEFINITIONS.—In this section, the term “approved transaction monitoring software” means software that is capable of sorting a set of financial transactions in order of riskiness and that has been approved by FinCEN under subsection (b).

(c) APPLICATION AND APPROVAL.—

(1) IN GENERAL.—Software shall become approved transaction monitoring software upon application by its owner to and approval by FinCEN, subject to standards set by FinCEN.

(2) FINCEN REVIEW.—FinCEN shall examine the software, algorithms, and the sensitivity and calibration of the software and determine whether the software is effective in ranking sets of financial transactions in order of riskiness, including through the use of back testing of known transactions of an illicit nature.

(3) PILOTS.—During the pendency of an application under this subsection, FinCEN may supervise one or more pilots of the software conducted by fi-
financial institutions designed to test the software’s ability to meet the standards for approval promulgated under this section.

(d) GUIDANCE.—

(1) IN GENERAL.—In determining whether software should be approved transaction monitoring software under this section, or as part of any periodic examination of a transaction monitoring software under the next section, FinCEN shall establish for financial institutions using approved transaction monitoring software investigative priorities defined by level of riskiness according to the transaction monitoring algorithm.

(2) INVESTIGATIVE PRIORITIES.—

(A) IN GENERAL.—The investigative priorities shall include—

(i) low risk transactions that shall not require further investigation by the financial institution and that does not warrant the filing of a report under the Bank Secrecy Act;

(ii) medium risk transactions that require an investigation by the financial institution and may, depending on the results of the investigation, warrant the fil-
ing of a report under the Bank Secrecy
Act; and

(iii) high risk transactions that re-
quire the filing of a report under the Bank
Secrecy Act.

(B) Classification.—The investigative
priorities described in clause (i) may vary by
classification of financial institution as deter-
mined by FinCEN according to factors
FinCEN deems important, such as volume of
transactions and international connectedness.

(3) Feedback.—

(A) In General.—As part of the guidance
process and periodic and regular examinations
of the transaction monitoring service company
by FinCEN, FinCEN, after consultation with
the Federal intelligence and law enforcement
communities, shall provide feedback and guid-
ance to the vendor of the approved transaction
monitoring software, including regarding trans-
actions that led to important law enforcement
investigations and transactions that were false
positives.

(B) Sharing.—The information described
in subparagraph (A) does not need to be shared
with the vendor of the approved transaction monitoring software if FinCEN, or a Federal intelligence or law enforcement entity, determines it would jeopardize and ongoing investigation or is otherwise too sensitive to share.

(C) Direct Feedback.—FinCEN shall endeavor to provide feedback directly to the approved transaction monitoring software to the extent feasible consistent with subparagraph (B).

(4) Transparency.—The algorithm described in paragraph (1) shall be made transparent so that reasons for flagging a transaction as potentially suspicious are available to FinCEN.

(e) Supervisory and Examination Authorities.—

(1) In General.—FinCEN shall have full examination and supervisory authorities, including access to the algorithm and models of the transaction monitoring service company.

(2) Periodic and Regular Examination.—FinCEN shall periodically and regularly examine each approved transaction monitoring software—
(A) to determine whether the approved transaction monitoring software is in compliance with the law; and

(B) to update the investigative priorities with respect to the approved transaction monitoring software under paragraph (c)(2).

(3) TRANSACTION MONITORING COMPLIANCE.—

(A) IN GENERAL.—A financial institution using approved transaction monitoring software shall not be subject to any transaction monitoring requirements promulgated by its applicable Federal functional regulator.

(B) EXAMINATION.—A financial institution not using transaction monitoring software approved by FinCEN under this section shall be examined for compliance with transaction monitoring rules as otherwise provided in this chapter.

(C) RULE OF CONSTRUCTION.—This section shall not be construed as requiring financial institutions to use approved transaction monitoring software to comply with transaction monitoring requirements promulgated by the applicable Federal functional regulators.
(4) Parallel Run.—FinCEN, in consultation with the Federal functional regulators, may require a financial institution beginning to use approved transaction monitoring software that it is not currently using to run its existing transaction monitoring software in parallel with the new approved transaction monitoring software for a limited period of time to confirm the efficacy of the new approved transaction monitoring software.

(5) Data Retention and Cybersecurity.—

FinCEN—

(A) may retain the software, software code, models and other sensitive information of the transaction monitoring service company for only as long as it is necessary to perform its supervisory or examination duties; and Note: IP concerns?

(B) shall ensure the software, software code, models, and other sensitive information described in subparagraph (A) is handled subject to strict cybersecurity standards.

SEC. 302. DEIDENTIFIED AML INFORMATION.

(a) Amendment to the Gramm-Leach-Bliley Act.—Title V of the Gramm-Leach-Bliley Act (15 U.S.C.
6801 et seq.) is amended by inserting after section 509
(15 U.S.C. 6809) the following:

"SEC. 509A. DEIDENTIFIED AML INFORMATION.

"(a) DEFINITIONS.—In this section:

"(1) DE-IDENTIFIED INFORMATION.—The term
‘deidentified information’ means financial institution
information that does not identify a person and with
respect to which there is no reasonable basis to be-
lieve that the information is nonpublic personal in-
formation.

"(b) PROCESS.—A financial institution may deter-
mine that financial institution information is deidentified
information only if—

"(1) a person with appropriate knowledge of
and experience with generally accepted statistical
and scientific principles and methods for rendering
information not individually identifiable—

"(A) applying such principles and methods,
determines that the risk is very small that the
information could be used, alone or in combina-
tion with other reasonably available informa-
tion, by an anticipated recipient to identify a
person who is a subject of the information; and

"(B) documents the methods and results of
the analysis that justify such determination; or
“(2)(A) appropriate identifiers of the person or of relatives, employers, or household members of the person, are removed; and

“(B) the financial institution does not have actual knowledge that the information could be used alone or in combination with other information to identify a person who is a subject of the information.

“(c) Reidentification.—A financial institution may assign a code or other means of record identification to allow information deidentified under this section to be reidentified by the financial institution, provided that—

“(1) the code or other means of record identification is not derived from or related to information about the person and is not otherwise capable of being translated so as to identify the person; and

“(2) the financial institution does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for reidentification.

“(d) Permissible Use.—

“(1) Limited use of data.—De-identified information sent or received by a financial institution shall not be used for any purpose except attempting to identify suspicious activity that may merit the fil-
ing of a suspicious activity report under section 5318(g) of title 31, United States Code.

“(2) NO FURTHER COMMUNICATION.—

“(A) Except as set forth in subparagraph (B), a financial institution may not transmit any de-identified information to any person other than a financial institution pursuant to this section.

“(B) Upon demand, a financial institution shall make available to FinCEN any deidentified information it transmits or receives.

“(e) ENFORCEMENT.—The owner of an approved telecommunications system shall be a ‘covered person’ for purposes of section 505(a)(8).

“(f) LIMITED USE OF DATA.—An approved communications system and anonymized data received by a financial institution through an approved communications system shall not be used for any purpose.

“(g) RULEMAKING.—No later than 1 year after the date of the enactment of this section, the Bureau of Consumer Financial Protection shall issue regulations to carry out the amendments made by this section.”.
SEC. 303. NO ACTION LETTERS.

Section 310 of title 31, United States Code, as amended by sections 102, 103, and 104, is amended by adding at the end the following:

“(j) NO-ACTION LETTERS WITH RESPECT TO SPECIFIC CONDUCT.—

“(1) IN GENERAL.—The Director of FinCEN and the Federal functional regulators shall jointly promulgate regulations and guidance to establish a process for the issuance of a no-action letter by FinCEN and the relevant Federal functional regulators in response to an inquiry from a person concerning the application of the Bank Secrecy Act, the USA PATRIOT Act (Public Law 107–56; 115 Stat. 272), section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), or any other anti-money laundering and counter-terrorism financing law (including regulations) to specific conduct, which shall include a statement as to whether FinCEN or any relevant Federal functional regulator has any intention of taking an enforcement action against the person with respect to such conduct.

“(2) PERSONS COVERED.—A person described in this paragraph is—
“(A) any person involved in the specific conduct that is the subject of the no-action letter; and

“(B) any person involved in conduct that is indistinguishable in all material aspects from the specific conduct that is the subject of the no-action letter.

“(3) RELIANCE.—A no-action letter issued under paragraph (1) shall not bind FinCEN or the relevant Federal functional regulators with respect to changes in guidance issued, regulations promulgated, fines assessed, or enforcement actions taken after the date on which the no-action letter is issued.

“(4) CONTENTS.—The regulations issued under paragraph (1) shall contain a timeline for the final determination by FinCEN and the relevant Federal functional regulators in response to a request by a person for the issuance of a no-action letter.”.

SEC. 304. BRANCH AND AFFILIATE COORDINATION.

(a) SHARING SUSPICIOUS ACTIVITY REPORTS WITHIN A FINANCIAL GROUP.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following:

“(5) SHARING WITH FOREIGN BRANCHES AND AFFILIATES.—
“(A) IN GENERAL.—Except as provided in subparagraph (B) and notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this paragraph, the Secretary of the Treasury, after consultation with law enforcement, shall promulgate regulations permitting a financial institution to share information on reports under this subsection with any foreign branch or affiliate of the financial institution for the purpose of combating illicit finance risks.

“(B) EXCEPTION.—In promulgating the regulations required under subparagraph (A), the Secretary may not permit a financial institution to share information on reports under this subsection with a foreign branch or affiliate located in a jurisdiction that—

“(i) is subject to countermeasures imposed by the Federal Government;

“(ii) based on the policies and priorities and environment for financial institutions in that jurisdiction, the Secretary has determined cannot reasonably protect the privacy of such information or would oth-
erwise endanger or frustrate law enforce-
ment efforts; or

“(C) NON-FATF JURISDICTIONS.—Infor-

mation sharing between a financial institution
and any foreign branch or affiliate of the finan-
cial institution that is located in a jurisdiction
that is not a member of the Financial Agency
Task Force shall be done pursuant to a con-

fidentiality agreement substantially in a form
prescribed by the Secretary.

“(D) INTERNATIONAL COOPERATION.—
The Secretary shall encourage other countries
to adopt policies similar to those prescribed by
this paragraph.”.

(b) NOTIFICATION PROHIBITIONS.—Section
5318(g)(2)(A) of title 31, United States Code, is amend-
ed—

(1) in clause (i), by inserting after “transaction
has been reported” the following: “or otherwise re-
veal any information that would reveal that the
transaction has been reported, including materials
prepared or used by the financial institution for the
purpose of identifying and detecting potentially sus-
picious activity”; and
(2) in clause (ii), by inserting after “transaction has been reported,” the following: “or otherwise reveal any information that would reveal that the transaction has been reported, including materials prepared or used by the financial institution for the purpose of identifying and detecting potentially suspicious activity,”.

(c) RULEMAKING.—Not later than the end of the 180-day period beginning on the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out the amendments made by this section.

SEC. 305. FOREIGN EVIDENTIARY REQUESTS.

(a) FOREIGN EVIDENTIARY REQUESTS.—Section 5318(k)(3)(A) of title 31, United States Code, is amended by adding after new clauses (iii) and (iv) as follows:

“(iii) USE AS EVIDENCE.—If required by a summons or subpoena referred to in clause (i), the foreign bank on which the summons or subpoena was served shall produce the records described in the summons or subpoena in a manner that would establish their authenticity and reliability under the Federal Rules of Evidence.

“(iv) ANTI-TIP-OFF.—Any foreign bank upon which a summons or subpoena
referred to in clause (i) has been served, and any director, officer, employee, or agent of such foreign bank, shall not voluntarily disclose to a person not employed by the foreign bank the fact that it received a summons or subpoena or any of the information contained in that summons or subpoena.”.

(b) FOREIGN EVIDENTIARY REQUESTS.—Section 5318(k)(3) of title 31, United States Code, is amended by adding after new subparagraph (D) as follows:

“(D) COURT ORDERS AND CONTEMPT.—

“(i) COURT ORDERS.—If the Secretary of the Attorney General (in each case, in consultation with the other) determines that a foreign bank has failed to comply with a summons or subpoena issued under subparagraph (A), the Secretary of the Treasury or the Attorney General (in each case, in consultation with the other) may initiate proceedings in a United States court seeking a court order to compel compliance with such summons or subpoena.
“(ii) CONTEMPT.—If the Secretary of the Attorney General (in each case, in consultation with the other) determines that a foreign bank has failed to comply with a court order described in clause (i), the Secretary of the Attorney General (in each case, in consultation with the other) may petition the United States court that issued the court order to levy a civil or criminal contempt fine on the foreign bank.”.

SEC. 306. UPDATING WHISTLEBLOWER INCENTIVES AND PROTECTION.

(a) WHISTLEBLOWER INCENTIVES AND PROTECTION.—

(1) IN GENERAL.—Section 5323 of title 31, United States Code, is amended to read as follows:

“§ 5323. Whistleblower incentives and protections

“(a) DEFINITIONS.—In this section:

“(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term ‘covered judicial or administrative action’ means any judicial or administrative action brought by the Treasury or the Department of Justice under subchapters II and III of this title
that results in monetary sanctions exceeding $1,000,000.

“(2) Fund.—The term ‘Fund’ means the Anti-Money Laundering and Counter-Terrorism Financing Fund.

“(3) Original Information.—The term ‘original information’ means information that—

“(A) is derived from the independent knowledge or analysis of a whistleblower;

“(B) is not known to the Treasury, the Department of Justice or an appropriate regulator, unless the whistleblower is the original source of the information; and

“(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

“(4) Monetary Sanctions.—The term ‘monetary sanctions’, when used with respect to any judicial or administrative action, means any monies, including penalties and interest, ordered to be paid.

“(5) Related Action.—The term ‘related action’, when used with respect to any judicial or ad-
ministrative action brought by the Treasury or the Department of Justice under subchapters II and III of this title, means any judicial action brought by an entity that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Treasury or Department of Justice action.

“(6) Whistleblower.—The term ‘whistleblower’ means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of the laws under subchapters II and III of this title to the Treasury, in a manner established, by rule or regulation, by the Treasury.

“(b) Awards.—

“(1) In general.—In any covered judicial action, or related action, the Treasury, under regulations prescribed by the Treasury and subject to subsection (c), may pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Treasury that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—
“(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

“(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

“(2) Payment of Awards.—Any amount paid under paragraph (1) shall be paid from the Fund.

“(c) Determination of Amount of Award; Denial of Award.—

“(1) Determination of Amount of Award.—

“(A) Discretion.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Treasury.

“(B) Criteria.—In determining the amount of an award made under subsection (b), the Treasury —

“(i) shall take into consideration —

“(I) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;
“(II) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

“(III) the programmatic interest of the Treasury in deterring violations of the laws under subchapters II and III of this title by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and

“(IV) such additional relevant factors as the Treasury may establish by rule or regulation; and

“(ii) shall not take into consideration the balance of the Fund.

“(2) Denial of Award.—No award under subsection (b) shall be made—

“(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Treasury, a member, officer, or employee of—

“(i) an appropriate regulatory agency;
“(ii) the Department of Justice or the Treasury;

“(iii) a self-regulatory organization; or

“(iv) a law enforcement organization;

“(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section; or

“(C) to any whistleblower who fails to submit information to the Treasury in such form as the Treasury may, by rule, require.

“(d) REPRESENTATION.—

“(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (c) may be represented by counsel.

“(2) REQUIRED REPRESENTATION.—

“(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

“(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall
disclose the identity of the whistleblower and
provide such other information as the Treasury
may require, directly or through counsel for the
whistleblower.

“(e) No Contract Necessary.—No contract with
the Treasury is necessary for any whistleblower to receive
an award under subsection (b), unless otherwise required
by the Treasury by rule or regulation.

“(f) Appeals.—Any determination made under this
section, including whether, to whom, or in what amount
to make awards, shall be in the discretion of the Treasury.
Any such determination, except the determination of the
amount of an award if the award was made in accordance
with subsection (b), may be appealed to the appropriate
court of appeals of the United States not more than 30
days after the determination is issued by the Treasury.
The court shall review the determination made by the
Treasury in accordance with section 706 of title 5.

“(g) Anti-Money Laundering and Counter-Terror-
ism Financing Fund.—

“(1) Fund established.—There is estab-
lished in the Treasury of the United States a fund
to be known as the ‘Anti-Money Laundering and
Counter-Terrorism Financing Fund’.
“(2) USE OF FUND.—The Fund shall be available to the Treasury, without further appropriation or fiscal year limitation, for paying awards to whistleblowers as provided in subsection (e).

“(3) DEPOSITS AND CREDITS.—

“(A) IN GENERAL.—There shall be deposited into or credited to the Fund an amount equal to any monetary sanction collected by the Treasury or the Department of Justice in any judicial or administrative action for violations of the law under subchapters II and III of this title and all income from investments made under paragraph (4).

“(B) ADDITIONAL AMOUNTS.—If the amounts deposited into or credited to the Fund under subparagraph (A) are not sufficient to satisfy an award made under subsection (b), there shall be deposited into or credited to the Fund an amount equal to the unsatisfied portion of the award from any monetary sanction collected by the Treasury or the Department of Justice in the covered judicial or administrative action on which the award is based.

“(4) INVESTMENTS.—
“(A) Amounts in Fund may be invested.—The Secretary of the Treasury may invest the portion of the Fund that is not, in the discretion of the Secretary of the Treasury, required to meet the current needs of the Fund.

“(B) Eligible investments.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Treasury.

“(C) Interest and proceeds credited.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.

“(5) Reports to Congress.—Not later than October 30 of each fiscal year, the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on—

“(A) the whistleblower award program, established under this section, including—
“(i) a description of the number of awards granted; and

“(ii) the types of cases in which awards were granted during the preceding fiscal year;

“(B) the balance of the Fund at the beginning of the preceding fiscal year;

“(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;

“(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;

“(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

“(F) the balance of the Fund at the end of the preceding fiscal year; and

“(G) a complete set of audited financial statements, including—

“(i) a balance sheet;

“(ii) income statement; and

“(iii) cash flow analysis.

“(h) CONFIDENTIALITY.—
“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Treasury and any officer or employee of the Treasury shall not disclose any information, including information provided by a whistleblower to the Treasury, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Treasury or any entity described in paragraph (3). For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section.

“(2) EXEMPTED STATUTE.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section.

“(3) RULE OF CONSTRUCTION.—Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.
“(4) AVAILABILITY TO GOVERNMENT AGEN-
CIES.—

“(A) IN GENERAL.—Without the loss of its
status as confidential in the hands of the Treas-
ury, all information referred to in paragraph
(1) may, in the discretion of the Treasury,
when determined by the Treasury to be nec-
essary to accomplish the purposes of this chap-
ter and to protect investors, be made available
to—

“(i) the Attorney General of the
United States or the Secretary of the
Treasury;

“(ii) an appropriate regulatory au-
thority;

“(iii) a self-regulatory organization;

“(iv) a State attorney general in con-
nection with any criminal investigation;

“(v) any appropriate State regulatory
authority;

“(vi) the Public Company Accounting
Oversight Board;

“(vii) a foreign securities authority;

and
“(viii) a foreign law enforcement authority.

“(B) CONFIDENTIALITY.—

“(i) IN GENERAL.—Each of the entities described in clauses (i) through (vi) of subparagraph (A) shall maintain such information as confidential in accordance with the requirements established under paragraph (1).

“(ii) FOREIGN AUTHORITIES.—Each of the entities described in clauses (vii) and (viii) of subparagraph (A) shall maintain such information in accordance with such assurances of confidentiality as the Treasury determines appropriate.

“(iii) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

“(i) PROVISION OF FALSE INFORMATION.—A whistleblower shall not be entitled to an award under this section if the whistleblower—
“(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

“(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

“(j) RULEMAKING AUTHORITY.—The Treasury shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5323 and inserting the following:

“5323. Whistleblower incentives and protections.”.

SEC. 307. DIGITAL CURRENCY.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:
“(D) as the Secretary shall provide by regulation, value that is issued or repurposed to substitute for currency.”.

SEC. 308. FIGHT ILLICIT NETWORKS AND DETECT TRAFFICKING ACT.

(a) FINDINGS.—The Congress finds the following:

(1) According to the Drug Enforcement Administration (DEA) 2017 National Drug Threat Assessment, transnational criminal organizations are increasingly using virtual currencies.

(2) The Treasury Department has recognized that: “The development of virtual currencies is an attempt to meet a legitimate market demand. According to a Federal Reserve Bank of Chicago economist, United States consumers want payment options that are versatile and that provide immediate finality. No United States payment method meets that description, although cash may come closest. Virtual currencies can mimic cash’s immediate finality and anonymity and are more versatile than cash for online and cross-border transactions, making virtual currencies vulnerable for illicit transactions.”.

(3) Virtual currencies have become a prominent method to pay for goods and services associated with illegal sex trafficking and drug trafficking, which are
two of the most detrimental and troubling illegal activities facilitated by online marketplaces.

(4) Online marketplaces, including the dark web, have become a prominent platform to buy, sell, and advertise for illicit goods and services associated with sex trafficking and drug trafficking.

(5) According to the International Labour Organization, in 2016, 4,800,000 people in the world were victims of forced sexual exploitation, and in 2014, the global profit from commercial sexual exploitation was $99,000,000,000.

(6) In 2016, within the United States, the Center for Disease Control estimated that there were 64,000 deaths related to drug overdose, and the most severe increase in drug overdoses were those associated with fentanyl and fentanyl analogs (synthetic opioids), which amounted to over 20,000 overdose deaths.

(7) According to the United States Department of the Treasury 2015 National Money Laundering Risk Assessment, an estimated $64,000,000,000 is generated annually from United States drug trafficking sales.
(8) Illegal fentanyl in the United States originates primarily from China, and it is readily available to purchase through online marketplaces.

(b) GAO Study.—

(1) Study required.—The Comptroller General of the United States shall conduct a study on how virtual currencies and online marketplaces are used to facilitate sex and drug trafficking. The study shall consider—

(A) how online marketplaces, including the dark web, are being used as platforms to buy, sell, or facilitate the financing of goods or services associated with sex trafficking or drug trafficking (specifically, opioids and synthetic opioids, including fentanyl, fentanyl analogs, and any precursor chemicals associated with manufacturing fentanyl or fentanyl analogs) destined for, originating from, or within the United States;

(B) how financial payment methods, including virtual currencies and peer-to-peer mobile payment services, are being utilized by online marketplaces to facilitate the buying, selling, or financing of goods and services associ-
ated with sex or drug trafficking destined for, originating from, or within the United States;

(C) how virtual currencies are being used to facilitate the buying, selling, or financing of goods and services associated with sex or drug trafficking, destined for, originating from, or within the United States, when an online platform is not otherwise involved;

(D) how illicit funds that have been transmitted online and through virtual currencies are repatriated into the formal banking system of the United States through money laundering or other means;

(E) the participants (state and non-state actors) throughout the entire supply chain that participate in or benefit from the buying, selling, or financing of goods and services associated with sex or drug trafficking (either through online marketplaces or virtual currencies) destined for, originating from, or within the United States;

(F) Federal and State agency efforts to impede the buying, selling, or financing of goods and services associated with sex or drug trafficking destined for, originating from, or
within the United States, including efforts to prevent the proceeds from sex or drug trafficking from entering the United States banking system;

(G) how virtual currencies and their underlying technologies can be used to detect and deter these illicit activities; and

(H) to what extent can the immutable and traceable nature of virtual currencies contribute to the tracking and prosecution of illicit funding.

(2) SCOPE.—For the purposes of the study required under subsection (a), the term “sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act that is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report summarizing the re-
results of the study required under subsection (a), together
with any recommendations for legislative or regulatory ac-
tion that would improve the efforts of Federal agencies
to impede the use of virtual currencies and online market-
places in facilitating sex and drug trafficking.

SEC. 309. ADDITIONAL STUDIES.

Not later than 2 years after the date of enactment
of this Act, the Comptroller General of the United States
shall conduct a study and submit to Congress a report—

(1) evaluating the effect of anti-money laun-
dering and counter-terrorism financing requirements
on natural persons and entities, including charities,
embassy accounts, money service businesses, and
correspondent and respondent banks, who have been
subject to categorical de-risking, or otherwise have
difficulty accessing or maintaining relationships in
the financial system or for certain financial services,
including the cost of opening and keeping open an
account; and

(2) the most appropriate ways to promote fi-
nancial inclusion, address the adverse consequences
of financial institutions de-risking entire categories
of relationships, and minimize the negative effects of
anti-money laundering and counter-terrorism financ-
ing requirements on the persons described in para-
graph (1) without compromising the effectiveness of the anti-money laundering and counter-terrorism regime.

**TITLE IV—BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS**

**SEC. 401. BENEFICIAL OWNERSHIP.**

(a) IN GENERAL.—Chapter 53 of title 31, United States Code, as amended by section 101 of this Act, is amended by adding at the end the following:

“§ 5336. Transparent incorporation practices

“(a) DEFINITIONS.—In this section:

“(1) ACCEPTABLE IDENTIFICATION DOCUMENT.—A natural person has an acceptable identification document if that person has a non-expired passport issued by the United States, a non-expired identification document issued by a State, local government, or Federally recognized Indian Tribe to an individual acting for the purpose of identification of that individual, or a non-expired driver’s license issued by a State; or, if the natural person does not have any such document, a non-expired passport issued by a foreign government.

“(2) BENEFICIAL OWNER.—The term ‘beneficial owner’—
“(A) means, with respect to an entity, a natural person who directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

“(i) exercises substantial control over such entity; or

“(ii) owns 25 percent or more of the equity interests of such entity or receives substantial economic benefits from the assets of such entity; and

“(B) the term ‘beneficial owner’ shall not include—

“(i) a minor child, as defined in the state in which the entity is formed;

“(ii) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

“(iii) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;
“(iv) a person whose only interest in a corporation or limited liability company is through a right of inheritance; or

“(v) a creditor of a corporation or limited liability company, unless the creditor meets the requirements of subparagraph (A).

“(C) Substantial Control.—For purposes of paragraph (2), a natural person has substantial control over an entity if that person (i) has an entitlement to the funds or assets of the entity that, as a practical matter, enables the person, directly or indirectly, to control, manage, or direct the entity, or (ii) is otherwise able to control the entity as defined by the Secretary.

“(3) EIN.—The term ‘EIN’ means the employer identification number assigned under section 6109 of the Internal Revenue Code of 1986.

“(4) FinCEN.—The term ‘FinCEN’ means the Financial Crimes Enforcement Network of the Department of the Treasury.

“(5) FinCEN identifier.—The term ‘FinCEN identifier’ means the unique identifying number assigned by FinCEN to a person under this section.
“(6) Reporting company.—The term ‘reporting company’—

“(A) means a corporation, limited liability company, or other similar entity that is—

“(i) created by the filing of a document with a Secretary of State or a similar office under the law of a State or Indian tribe; or

“(ii) formed under the law of a foreign country and registered to do business in a State by the filing of a document with a Secretary of State or a similar office under the law of the State;

“(B) does not include—

“(i) an issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d));

“(ii) a business concern constituted or sponsored by a State, a political subdivision of a State, under an interstate compact between two or more States, by a de-
partment or agency of the United States,
or under the laws of the United States;

“(iii) a depository institution (as de-
defined in section 3 of the Federal Deposit
Insurance Act (12 U.S.C. 1813));

“(iv) a credit union (as defined in sec-
tion 101 of the Federal Credit Union Act
(12 U.S.C. 1752));

“(v) a bank holding company (as de-
defined in section 2 of the Bank Holding

“(vi) a broker or dealer (as defined in
section 3 of the Securities Exchange Act of
1934 (15 U.S.C. 78c)) that is registered
under section 15 of the Securities Ex-
change Act of 1934 (15 U.S.C. 78o);

“(vii) an exchange or clearing agency
(as defined in section 3 of the Securities
that is registered under section 6 or 17A
of the Securities Exchange Act of 1934
(15 U.S.C. 78f and 78q–1);

“(viii) an investment company (as de-
defined in section 3 of the Investment Com-
pany Act of 1940 (15 U.S.C. 80a–3)) or
an investment adviser (as defined in section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(11))), if the company or adviser is registered with the Securities and Exchange Commission, or has filed an application for registration which has not been denied, under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or the Investment Adviser Act of 1940 (15 U.S.C. 80b–1 et seq.);

"(ix) an insurance company (as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2));

"(x) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), or a futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is registered with the Commodity Futures Trading Commission;

"(xi) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act (15 U.S.C. 7212);
“(xii) a public utility that provides telecommunications service, electrical power, natural gas, or water and sewer services, within the United States;

“(xiii) a church, charity, or nonprofit entity that is described in section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, that has not been denied tax exempt status, and that has filed the most recently due annual information return with the Internal Revenue Service, if required to file such a return;

“(xiv) any business concern that—

“(I) employs more than 20 employees on a full-time basis in the United States;

“(II) files income tax returns in the United States demonstrating more than $5,000,000 in gross receipts or sales; and

“(III) has an operating presence at a physical office within the United States; or

“(xv) any corporation or limited liability company formed and owned by an enti-
ty described in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), or (xiv); and

“(xvi) any business concern or class of business concerns which the Secretary of the Treasury, with the written concurrence of the Attorney General of the United States, has determined should be exempt from the requirements of subsection (a) because requiring beneficial ownership information from the business concern or class of business concerns would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct; and

“(7) STATE.—The term ‘State’ means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

“(8) SUBSTANTIAL ECONOMIC BENEFITS.—The term ‘substantial economic benefits’ means an entitlement to more than \[[X]\] percentage of the funds
or assets of an entity that the Secretary by rule
shall establish.

"(9) UNIQUE IDENTIFYING NUMBER.—The
term ‘unique identifying number’ with respect to a
natural person or a limited liability company with a
sole member means the unique identifying number
from a nonexpired passport issued by the United
States, a nonexpired personal identification card, or
a nonexpired driver’s license issued by a State.

"(b) BENEFICIAL OWNERSHIP REPORTING.—

"(1) REPORTING.—

"(A) IN GENERAL.—In accordance with
regulations prescribed by the Secretary, each
reporting company shall submit to FinCEN a
report that contains the information described
in paragraph (2).

"(B) REPORTING OF EXISTING ENTI-
tIES.—In accordance with regulations pre-
scribed by the Secretary, any reporting com-
pany that has been formed under the laws of a
State or Indian tribe prior to the date of enact-
ment of this section, shall, in a timely manner,
and not later than 2 years after the date of en-
actment of this section, submit to FinCEN a
report that contains the information described in paragraph (2).

“(C) Reporting at time of incorporation.—In accordance with regulations prescribed by the Secretary, any reporting company that has been formed under the laws of a State or Indian tribe after the date of enactment of this section, shall, at the time of incorporation, submit to FinCEN a report that contains the information described in paragraph (2).

“(D) Updated reporting.—In accordance with regulations prescribed by the Secretary, a reporting company shall, in a timely manner, and not later than 90 days after the date on which any information described in paragraph (2) changes, deliver to FinCEN a report that includes the information described in paragraph (2).

“(E) Other requirements.—In promulgating the regulation prescribed in subparagraphs (A), (B), (C), and (D), the Secretary shall endeavor, to the extent practicable—
“(i) to collect information through existing Federal, State and local processes and procedures;

“(ii) to minimize burdens on reporting companies associated with the collection of the information described in paragraph (2) in light of the costs placed on legitimate businesses;

“(iii) to collect such information, including any updates in changes to beneficial ownership, to ensure the usefulness of beneficial ownership information for law enforcement and national security purposes;

“(iv) to establish partnerships with State, local and Tribal governmental agencies; and

“(v) to permit any entity that is not a reporting company to demand and received from FinCEN written confirmation that the entity is not subject to the requirements of this subsection.

“(2) REQUIRED INFORMATION.—In accordance with regulations prescribed by the Secretary, a report delivered under paragraph (1) shall include—
“(A) the legal name, business or residential address, jurisdiction of formation, date of formation, and EIN of the reporting company or, if the reporting company is a limited liability company with a sole member, such member’s unique identifying number;

“(B) the legal name, business or residential address, nationality or jurisdiction of formation, as applicable, date of birth or date of formation, as applicable, and EIN or unique identification number, as applicable, of any entity or natural person that is a beneficial owner; and

“(C) the legal name, business or residential address, nationality, and date of birth of a single natural person with significant responsibility to manage the reporting company.

“(3) EFFECTIVE DATE.—The requirements of this subsection shall take effect on the effective date of the regulations prescribed by the Secretary under this subsection, which effective date shall not be sooner than the date that is 1 year after the date of enactment of this section.

“(c) RETENTION AND DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION BY FinCEN.—
“(1) Retention, and disclosure.—

“(A) Retention of information.—Beneficial ownership information required under subparagraphs (A), (B), and (C) of subsection (b)(2), relating to each corporation or limited liability company formed under the laws of the State shall be maintained by FinCEN until the end of the 5-year period beginning on the date that the corporation or limited liability company terminates.

“(B) Disclosure.—FinCEN shall disclose the beneficial owners of a reporting company identified under paragraph (1), and may report the additional information described in paragraph (2), upon receipt of—

“(i) a request, through appropriate protocols, by a local, Tribal, State, or Federal agency;

“(ii) a request made by a Federal agency on behalf of a law enforcement agency of another country under an international treaty, agreement, or convention, or an order under section 3512 of title 18 or section 1782 of title 28, issued in response to a request for assistance in an in-
vestigation by such foreign country, subject to the requirement that such other country agrees to prevent the public disclosure of such beneficial ownership information or to use it for any purpose other than the specified investigation, or, if upon agreement by the Federal agency and the foreign country, in a criminal or civil case; or

“(iii) a request made by a financial institution or any other entity or person subject to customer due diligence requirements, with the consent of the reporting company, to facilitate the compliance of the financial institution or other entity or person with customer due diligence requirements under applicable Federal law or State law.

“(C) RULE OF CONSTRUCTION.—Information provided to a local, tribal, State, or Federal agency under this paragraph may only be used for law enforcement, money laundering, terrorist financing, national security or intelligence purposes.

“(d) SUMMONS AUTHORITY.—To assess the completeness and accuracy of a report delivered to FinCEN
under subsection (b), the Secretary or FinCEN, may summon any person, including any reporting company and any director, officer or employee of any reporting company, to appear at a time and place named in the summons and produce such books, records or other data, and give such testimony, as may be relevant or material to identifying the beneficial owners of a reporting company —

“(1) to appear before the Secretary at a time and place named in the summons; and

“(2) to produce such books, records, or other data of such reporting company and to give such testimony, under oath, as may be relevant to the inquiry.

“(e) DUE DILIGENCE OBLIGATIONS.—

“(1) IN GENERAL.—A financial institution subject to customer due diligence requirements that has knowledge that the information contained in the database maintained by FinCEN under subsection (c) conflicts with any information the financial institution shall—

“(A) report such discrepancy to FinCEN

“(B) and inform the relevant customer of their obligations under this section.
“(2) Periodic lists.—Each financial institution subject to customer due diligence requirements shall—

“(A) periodically send a customer that is a reporting company the list of beneficial owners maintained by FinCEN and associated with such company and require that the customer verify that such list is accurate; and

“(B) inform the customer of their obligations under this section.

“(f) State notification of Federal obligations.—Each State that receives funding under section 5336(c) shall, not later than 2 years after the date of enactment of this section, take the following actions:

“(1) The Secretary of State or a similar office in each State responsible for the establishment of entities created by the filing of a public document with such office under the law of such State shall periodically, including at the time of any renewal of any license to do business in such State and in connection with State corporate tax renewals, notify filers of their requirements as reporting companies under this section, including the requirement under subparagraph (b)(1)(B), and provide them with a copy of the reporting company form created by the
Secretary under this section or an internet link to such form.

“(2) The Secretary of State or a similar office in each State responsible for the establishment of entities created by the filing of a public document with such office under the law of such State shall update its websites, forms relating to incorporation and physical premises to notify filers of their requirements as reporting companies under this section, including providing an internet link to the reporting company form created by the Secretary under this section.

“(g) NO BEARER SHARE CORPORATIONS OR LIMITED LIABILITY COMPANIES.—A corporation or limited liability company formed under the laws of a State may not issue a certificate in bearer form evidencing either a whole or fractional interest in the corporation or limited liability company.

“(h) PENALTIES.—

“(1) IN GENERAL.—It shall be unlawful for any person to affect interstate or foreign commerce by—

“(A) knowingly providing, or attempting to provide, false or fraudulent beneficial ownership information, including a false or fraudulent
identifying photograph, to FinCEN in accordance with subsection (b) or (d);

“(B) willfully failing to provide complete or updated beneficial ownership information to FinCEN in accordance with subsection (b) or (d); or

“(C) knowingly disclosing the existence of a subpoena or other request for beneficial ownership information reported pursuant to subsection (b) or (d), except—

“(i) to the extent necessary to fulfill the authorized request; or

“(ii) as authorized by the entity that issued the subpoena, or other request.

“(2) CIVIL AND CRIMINAL PENALTIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any person who violates paragraph (1)—

“(i) shall be liable to the United States for a civil penalty of not more than $10,000 per day of such violation; and

“(ii) may be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

“(B) DE MINIMIS VIOLATIONS.—
“(i) IN GENERAL.—Except as provided in clause (ii), any person who commits a de minimis violation of subparagraph (A) or (C) of paragraph (1) shall be liable to the United States for a civil penalty of not more than $500 per day of such violation.

“(ii) REASONABLE STEPS.—

“(I) IN GENERAL.—Clause (i) shall not apply to any person that takes reasonable steps, as prescribed by the Secretary, to update the beneficial ownership information a timely manner upon—

“(aa) the discovery by the person of a reporting obligation under this section; or

“(bb) receiving notice of any violation of paragraph (1).

“(II) ASSISTANCE.—FinCEN shall provide assistance, without threat of penalty, to any person seeking to remedy a de minimis violation of paragraph (1).
“(iii) Repeated Violations.—The Secretary may consider repeated de minimis violations of paragraph (1) as evidence of a willful violation of that paragraph.

“(3) Recommendation of Revocation.—FinCEN may recommend to the relevant State attorney general that a reporting company in violation of paragraph (1) should have its authorization to do business revoked under State law.

“(4) Public List of Non-Compliant Companies and Persons.—FinCEN shall maintain and make public a list of all reporting companies and persons that it reasonably believes is not compliant with the provisions of this section and the nature of the breach associated with each non-compliant reporting company and person.

“(5) Criminal Penalty for the Misuse or Unauthorized Disclosure of Beneficial Ownership Information.—The criminal penalties provided for under section 5322 shall apply to a violation of this section to the same extent as such criminal penalties apply to a violation described in section 5322, if the violation of this section consists of the misuse or unauthorized disclosure of beneficial ownership information.

“(A) In General.—In the event of a cybersecurity breach that results in substantial unauthorized access and disclosure of sensitive beneficial ownership information, Inspector General of the Department of the Treasury shall conduct an investigation into FinCEN cybersecurity practices that, to the extent possible, determines any vulnerabilities within FinCEN privacy security protocols and provide recommendations for fixing such deficiencies.

“(B) Report.—The Inspector General of the Department of the Treasury shall submit to the Secretary a report on the investigation required under this paragraph.

“(C) Actions of the Secretary.—Upon receiving a report submitted under subparagraph (B), the Secretary shall—

“(i) determine whether the Director of FinCEN had any responsibility for the cybersecurity breach or whether policies, practices, or procedures implemented at
the direction of the Director of FinCEN led to the cybersecurity breach; and

“(ii) submit to Congress a written report outlining the findings of the Secretary, including a determination by the Secretary on whether to retain or dismiss the individual serving as the Director of FinCEN.

“(7) USER COMPLAINT PROCESS.—

“(A) IN GENERAL.—The Inspector General of the Department of the Treasury, in coordination with the Secretary, shall provide contact information to receive external comments or complaints regarding the beneficial ownership information collection process.

“(B) REPORT.—The Inspector General shall submit to Congress a semiannual report summarizing external complaints and related investigations by the Inspector General related to the collection of beneficial ownership information.

“(i) RULEMAKING.—In promulgating a rule under subsection (a)(8), the Secretary shall—

“(1) provide clarity to entities with respect to the identification and disclosure of a natural person
who receives substantial economic benefits from the
assets of an entity; and

“(2) identify those natural persons who, as a
result of the substantial economic benefits they re-
ceive, exercise a dominant influence over the enti-

ty.”.

(b) CONFORMING AMENDMENTS.—Title 31, United
States Code, is amended—

(1) in section 5321(a)—

(A) in paragraph (1), by striking “sections
5314 and 5315” each place it appears and in-
serting “sections 5314, 5315, and 5336; and

(B) in paragraph (6), by inserting “(except
section 5336)” after “subchapter” each place it
appears; and

(2) in section 5322, by striking “section 5315
or 5324” each place it appears and inserting “sec-
tion 5315, 5324, or 5336”.

(3) in the table of contents of chapter 53 of
title 31, United States Code, as amended by section
106 of this Act, by adding at the end the following:

“5336. Transparent incorporation practices.”.

(c) FUNDING AUTHORIZATION.—

(1) IN GENERAL.—To carry out section 5336 of
title 31, United States Code, as added by subsection
(a), during the 3-year period beginning on the date
of enactment of this Act, funds shall be made available to the FinCEN and the States to pay reasonable costs relating to compliance with the requirements of such section.

(2) FUNDING SOURCES.—Funds shall be provided to FinCEN and the States to carry out the purposes described in paragraph (1) from one or more of the following sources:

(A) Upon application by FinCEN or a State, and without further appropriation, the Secretary of the Treasury shall make available to the FinCEN or such State unobligated balances described in section 9703(g)(4)(B) of title 31, United States Code, in the Department of the Treasury Forfeiture Fund established under section 9703(a) of title 31, United States Code.

(B) Upon application by FinCEN or a State, after consultation with the Secretary of the Treasury, and without further appropriation, the Attorney General of the United States shall make available to FinCEN or such State excess unobligated balances (as defined in section 524(e)(8)(D) of title 28, United States Code) in the Department of Justice Assets For-
feiture Fund established under section 524(c) of title 28, United States Code.

(3) **MAXIMUM AMOUNTS.**—

(A) **DEPARTMENT OF THE TREASURY.**—
The Secretary of the Treasury may not make available to FinCEN a total of more than $30,000,000 and the States a total of not more than $5,000,000 under paragraph (2)(A).

(B) **DEPARTMENT OF JUSTICE.**—The Attorney General of the United States may not make available to FinCEN a total of more than $10,000,000 and the States a total of not more than $5,000,000 under paragraph (2)(B).

(d) **FEDERAL CONTRACTORS.**—Not later than the first day of the first full fiscal year beginning at least 1 year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation maintained under section 1303(a)(1) of title 41, United States Code, to require any contractor who is subject to the requirement to disclose beneficial ownership information under section 5336 of title 31, United States Code, to provide the information required to be disclosed under such section to the Federal Government as part of any bid or proposal for a contract with a value threshold in excess of the simplified acquisi-
tion threshold under section 134 of title 41, United States Code.

(e) Revised Due Diligence Rulemaking.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to carry out this section.

SEC. 402. EXPANSION OF GEOGRAPHIC TARGETING ORDERS.

(a) In General.—Chapter 53 of title 31, United States Code, as amended by section 101 of this Act, is amended by adding at the end the following:

“§ 5337. Reports on domestic real estate transactions

“(a) In General.—The Secretary shall require any person involved in a transaction related to the purchase and sale of real estate to file a report described in subsection (b) with respect to such transaction (or related transactions) at such time and in such manner as the Secretary may, by regulation, prescribe.

“(b) Report Described.—A report is described in this subsection if the report—

“(1) is in such form as the Secretary may prescribe; and

“(2) contains—

“(A) the name, and such other identification information as the Secretary may require,
of the natural person purchasing such real estate;

“(B) the amount and source of the funds received;

“(C) the date and nature of the transaction; and

“(D) such other information, including the identification of the person filing the report, as the Secretary may prescribe.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end the following:

“5337. Reports on domestic real estate transactions.”.

SEC. 403. BENEFICIAL OWNERSHIP STUDIES.

(a) OTHER LEGAL ENTITIES STUDY.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report—

(1) identifying each State that has procedures that enable persons to form or register under the laws of the State partnerships, trusts, or other legal entities, and the nature of those procedures;

(2) identifying each State that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State to
provide beneficial owners (as that term is defined in section 533X(X)(X) of title 31, United States Code, as added by this Act) or beneficiaries of such entities, and the nature of the required information;

(3) evaluating whether the lack of available beneficial ownership information for partnerships, trusts, or other legal entities—

(A) raises concerns about the involvement of such entities in terrorism, money laundering, tax evasion, securities fraud, or other misconduct; and

(B) has impeded investigations into entities suspected of such misconduct; and

(4) evaluating whether the failure of the United States to require beneficial ownership information for partnerships and trusts formed or registered in the United States has elicited international criticism and what steps, if any, the United States has taken or is planning to take in response.

(b) EFFECTIVENESS OF INCORPORATION PRACTICES

STUDY.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report assessing the effectiveness of incorporation prac-
ties implemented under this Act, and the amendments made by this Act, in—

(1) providing law enforcement agencies with prompt access to reliable, useful, and complete beneficial ownership information; and

(2) strengthening the capability of law enforcement agencies to—

(A) combat incorporation abuses, civil and criminal misconduct; and

(B) detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct.