

116TH CONGRESS
1ST SESSION

S. _____

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, Mr. ROUNDS, Mr. MENENDEZ, Mr. KENNEDY, Ms. CORTEZ MASTO, and Mr. MORAN) 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Improving Laundering Laws and Increasing Comprehen-
6 sive Information Tracking of Criminal Activity in Shell
7 Holdings Act” or the “ILLICIT CASH Act”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

- Sec. 3. Definitions.
- Sec. 4. Sense of Congress.

TITLE I—ANTI-MONEY LAUNDERING PROGRAMS AND THE FINANCIAL CRIMES ENFORCEMENT NETWORK

- Sec. 101. Establishment of national exam and supervision priorities.
- Sec. 102. FinCEN compensation.
- Sec. 103. Subcommittee on Innovation; investigator research hub.
- Sec. 104. Establishment of FinCEN financial institution liaison.
- Sec. 105. Interagency AML-CFT personnel rotation program.
- Sec. 106. Subcommittee on Privacy and Civil Liberties.
- Sec. 107. International coordination.
- Sec. 108. Strengthening FinCEN.

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

- Sec. 201. Annual reporting requirements.
- Sec. 202. Law enforcement feedback on suspicious activity reports.
- Sec. 203. Streamlining requirements for currency transaction reports and suspicious activity reports.
- Sec. 204. Currency transaction report and suspicious activity report thresholds review.
- Sec. 205. Review of regulations and guidance.
- Sec. 206. Penalty coordination.
- Sec. 207. Cooperation with law enforcement.
- Sec. 208. Additional damages for repeat Bank Secrecy Act violators.
- Sec. 209. Encouraging information sharing and public-private partnerships.

TITLE III—MODERNIZATION OF AML/CFT SYSTEM

- Sec. 301. Approved systems for identifying suspicious activities.
- Sec. 302. Financial crimes tech symposium.
- Sec. 303. Deidentified AML information.
- Sec. 304. No action letters.
- Sec. 305. OECD pilot program on sharing of suspicious activity reports within a financial group.
- Sec. 306. Foreign evidentiary requests.
- Sec. 307. Updating whistleblower incentives and protection.
- Sec. 308. Value that substitutes currency or funds.
- Sec. 309. Fight illicit networks and detect trafficking.
- Sec. 310. Study and strategy on Chinese money laundering.
- Sec. 311. Financial technology task force.
- Sec. 312. Study on the efforts of authoritarian regimes to exploit the financial system of the United States.
- Sec. 313. Additional studies.

TITLE IV—BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

- Sec. 401. Beneficial ownership.
- Sec. 402. Geographic targeting order.

Sec. 403. Beneficial ownership studies.

TITLE V—STRENGTHENING THE ABILITY OF THE SECURITIES
AND EXCHANGE COMMISSION TO PURSUE VIOLATIONS OF THE
SECURITIES LAWS

Sec. 501. Short title.

Sec. 502. Investigations and prosecutions of violations of the securities laws.

1 **SEC. 2. FINDINGS AND PURPOSES.**

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

3 (1) The practice known as bank de-risking,
4 whereby financial institutions avoid rather than
5 manage anti-money-laundering and countering-the-
6 financing-of-terrorism sanctions compliance risk, has
7 negatively impacted the ability of nonprofit organiza-
8 tions to conduct lifesaving activities around the
9 globe.

10 (2) Two-thirds of nonprofit organizations based
11 in the United States with international activities
12 face difficulties with financial access, most com-
13 monly the inability to send funds internationally
14 through transparent, regulated financial channels.

15 (3) Without access to timely and predictable
16 banking services, nonprofit organizations cannot
17 carry out essential humanitarian activities that lit-
18 erally can mean life or death to affected commu-
19 nities.

20 (4) De-risking ultimately drives money into less
21 transparent channels through carrying of cash or
22 use of unlicensed or unregistered money service re-

1 mitters, thus reducing transparency and traceability,
2 which are critical for financial integrity, and in-
3 creases the risk of money falling into the wrong
4 hands.

5 (5) Federal agencies must work to address de-
6 risking through establishment of guidance enabling
7 financial institutions to bank nonprofit organizations
8 and promoting focused and proportionate measures
9 consistent with a risk-based approach.

10 (6) The Federal Government should work coop-
11 eratively with other donor states to promote a multi-
12 stakeholder approach to risk-sharing among govern-
13 ments, financial institutions, and nonprofit organiza-
14 tions.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to improve coordination among the agencies
17 tasked with administering anti-money-laundering
18 and countering-the-financing-of-terrorism require-
19 ments, the agencies that examine financial institu-
20 tions for compliance with those requirements, Fed-
21 eral law enforcement agencies, the intelligence com-
22 munity, and financial institutions;

23 (2) to establish beneficial ownership reporting
24 requirements to improve transparency concerning
25 corporate structures and insight into the flow of il-

1 licit funds through such structures, discourage the
2 use of shell corporations as a tool to disguise illicit
3 funds, assist law enforcement with the pursuit of se-
4 rious crimes, and protect the national security of the
5 United States;

6 (3) to modernize anti-money-laundering and
7 counter-financing-of-terrorism laws to adapt the gov-
8 ernment and private sector response to new threats;

9 (4) to encourage technological innovation and
10 the adoption of new technology by financial institu-
11 tions to more effectively counter money laundering
12 and terrorist financing; and

13 (5) to reinforce that the anti-money-laundering
14 and countering-the-financing-of-terrorism policies,
15 procedures, and controls of financial institutions
16 shall be risk-based.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **BANK SECRECY ACT.**—The term “Bank Se-
20 crecy Act” means—

21 (A) section 21 of the Federal Deposit In-
22 surance Act (12 U.S.C. 1829b);

23 (B) chapter 2 of title I of Public Law 91–
24 508 (12 U.S.C. 1951 et seq.); and

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

3 (2) FEDERAL FUNCTIONAL REGULATOR.—The
4 term “Federal functional regulator” has the mean-
5 ing given the term in section 509 of the Gramm-
6 Leach-Bliley Act (15 U.S.C. 6809).

7 (3) FINCEN.—The term “FinCEN” means the
8 Financial Crimes Enforcement Network of the De-
9 partment of the Treasury.

10 (4) FINANCIAL INSTITUTION.—The term “fi-
11 nancial institution” has the meaning given the term
12 in section 5312 of title 31, United States Code.

13 (5) SECRETARY.—The term “Secretary” means
14 Secretary of the Treasury.

15 (6) STATE BANK SUPERVISOR.—The term
16 “State bank supervisor” has the meaning given the
17 term in section 3 of the Federal Deposit Insurance
18 Act (12 U.S.C. 1813).

19 **SEC. 4. SENSE OF CONGRESS.**

20 It is the sense of Congress that providing vital hu-
21 manitarian and development assistance and protecting the
22 integrity of the international financial system are com-
23 plementary goals. As such, Congress supports the fol-
24 lowing:

1 (1) Effective measures to stop the flow of illicit
2 funds and that promote the goals of anti-money
3 laundering and countering the financing of terrorism
4 and sanctions regimes.

5 (2) Anti-money laundering and countering the
6 financing of terrorism and sanctions policies that do
7 not hinder or delay the efforts of legitimate humani-
8 tarian organizations in providing assistance to—

9 (A) meet the needs of civilians facing hu-
10 manitarian crisis, including access to food,
11 health and medical care, shelter, and clean
12 drinking water; and

13 (B) prevent or alleviate human suffering,
14 in keeping with requirements of international
15 humanitarian law.

16 (3) Policies that ensure that incidental, inad-
17 vertent benefits that may indirectly benefit a des-
18 ignated group in the course of delivering life-saving
19 aid to civilian populations, are not the focus of the
20 Federal Government enforcement efforts.

21 (4) All laws, regulations, policies, guidance and
22 other measures that ensure the integrity of the fi-
23 nancial system through a risk-based approach.

1 **TITLE I—ANTI-MONEY LAUN-**
2 **DERING PROGRAMS AND THE**
3 **FINANCIAL CRIMES EN-**
4 **FORCEMENT NETWORK**

5 **SEC. 101. ESTABLISHMENT OF NATIONAL EXAM AND SU-**
6 **PERVISION PRIORITIES.**

7 (a) DECLARATION OF PURPOSE.—Subchapter II of
8 chapter 53 of title 31, United States Code, is amended
9 by striking section 5311 and inserting the following:

10 **“§ 5311. Declaration of purpose**

11 “It is the purpose of this subchapter (except section
12 5315) to—

13 “(1) prevent the laundering of money and the
14 financing of terrorism through the establishment by
15 financial institutions of reasonably designed risk-
16 based programs to combat money laundering and
17 terrorist financing;

18 “(2) facilitate the tracking of money that has
19 been sourced through criminal activity or is intended
20 to promote criminal or terrorist activity;

21 “(3) protect the integrity of the financial sys-
22 tem and the security of the United States;

23 “(4) establish appropriate frameworks for infor-
24 mation sharing among financial institutions, their
25 agent and service providers, their regulatory authori-

1 ties, associations of financial institutions, the Finan-
2 cial Crimes Enforcement Network, and law enforce-
3 ment authorities to identify, stop, and apprehend
4 money launderers and those who finance terrorists;
5 and

6 “(5) require certain reports or records where
7 they have a high degree of usefulness in criminal,
8 tax, or regulatory investigations or proceedings, or
9 in the conduct of intelligence or counterintelligence
10 activities, including analysis, to protect against ter-
11 rorism.”.

12 (b) ANTI-MONEY LAUNDERING PROGRAMS.—Section
13 5318 of title 31, United States Code, is amended—

14 (1) in subsection (a)(1), by striking “subsection
15 (b)(2)” and inserting “subsections (b)(2) and
16 (h)(4)”; and

17 (2) in subsection (h)—

18 (A) in paragraph (1)—

19 (i) by inserting “and terrorist financ-
20 ing” after “money laundering”; and

21 (ii) by inserting “and combating the
22 financing of terrorism” after “anti-money
23 laundering”;

24 (B) in paragraph (2)—

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

3 “(A) IN GENERAL.—The Secretary”; and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(B) FACTORS.—In establishing rules, reg-
7 ulations and guidance under subparagraph (A),
8 and in supervising and examining compliance
9 with those rules, the Secretary of the Treasury,
10 and the Federal functional regulators (as de-
11 fined in section 509 of the Gramm-Leach-Bliley
12 Act (12 U.S.C. 6809)) shall take into account
13 the following:

14 “(i) Financial institutions are spend-
15 ing private dollars for a public and private
16 benefit.

17 “(ii) The extension of financial serv-
18 ices to the underbanked in the United
19 States and abroad is a policy goal of the
20 United States.

21 “(iii) Effective anti-money-laundering
22 and combating-the-financing-of-terrorism
23 programs generate significant public bene-
24 fits by preventing the flow of illicit funds
25 in the financial system and by assisting

1 law enforcement with the identification and
2 prosecution of persons attempting to laun-
3 der money and other illicit activity through
4 the financial system.

5 “(iv) Anti-money-laundering and com-
6 bating-the-financing-of-terrorism programs
7 described in paragraph (1) should be rea-
8 sonably designed to assure and monitor
9 compliance with the requirements of this
10 subchapter and regulations issued here-
11 under, which should be risk based, includ-
12 ing that more financial institution atten-
13 tion and resources should be directed to-
14 ward higher risk customers and activities,
15 consistent with the risk profile of a finan-
16 cial institution, rather than lower risk cus-
17 tomers and activities.”; and

18 (C) by adding at the end the following:

19 “(4) PRIORITIES.—

20 “(A) IN GENERAL.—Not later than 270
21 days after the date of enactment of this para-
22 graph, the Secretary of the Treasury, in con-
23 sultation with the Attorney General, Federal
24 functional regulators (as defined in section 509
25 of the Gramm-Leach-Bliley Act (12 U.S.C.

1 6809), relevant State financial regulators, na-
2 tional security agencies, and the Secretary of
3 Homeland Security, shall establish and make
4 public priorities for anti-money laundering and
5 counter terrorist financing policy.

6 “(B) UPDATES.—Once every 4 years, the
7 Secretary of the Treasury shall, in consultation
8 with the Attorney General, Federal functional
9 regulators (as defined in section 509 of the
10 Gramm-Leach-Bliley Act (12 U.S.C. 6809), rel-
11 evant State financial regulators, national secu-
12 rity agencies, and the Secretary of Homeland
13 Security update the priorities established under
14 subparagraph (A).

15 “(C) RELATION TO NATIONAL STRAT-
16 EGY.—The Secretary of the Treasury shall en-
17 sure that the priorities established under sub-
18 paragraph (A) are consistent with the national
19 strategy for combating the financing of ter-
20 rorism and related forms of illicit finance devel-
21 oped under section 261 of the Countering Rus-
22 sian Influence in Europe and Eurasia Act of
23 2017 (Public Law 115–44; 131 Stat. 934).

24 “(D) RULEMAKING.—Not later than 120
25 days after the establishment of the priorities

1 under subparagraph (A), the Secretary of the
2 Treasury acting through the Office of Ter-
3 rorism and Financial Intelligence, in consulta-
4 tion with the Federal functional regulators (as
5 defined in section 509 of the Gramm-Leach-Bli-
6 ley Act (12 U.S.C. 6809), and relevant State fi-
7 nancial regulators, shall issue regulations to
8 carry out this paragraph.

9 “(E) SUPERVISION AND EXAMINATION.—
10 The review by a financial institution of the pri-
11 orities established under subparagraph (A) and
12 the incorporation of those priorities, as appro-
13 priate, into the risk-based programs established
14 by a financial institution to meet obligations
15 under this subchapter, the USA PATRIOT Act
16 (Public Law 107–56; 115 Stat. 272), and other
17 anti-money-laundering and counter-terrorist-fi-
18 nancing laws and regulations shall be included
19 as a measure on which a financial institution is
20 supervised and examined for compliance with
21 those obligations.”.

22 (c) FINANCIAL CRIMES ENFORCEMENT NETWORK.—
23 Section 310(b)(2) of title 31, United States Code, is
24 amended by adding at the end the following:

1 “(K) Promulgate regulations under section
2 5318(h)(4)(D), to implement the government-
3 wide anti-money-laundering and counter-ter-
4 rorist-financing examination and supervision
5 priorities established by the Secretary of the
6 Treasury under section 5318(h)(4)(A).

7 “(L) Communicate regularly with financial
8 institutions and Federal functional regulators
9 that examine financial institutions for compli-
10 ance with subchapter II of chapter 53 and reg-
11 ulations issued thereunder and law enforcement
12 authorities to explain the Government’s anti-
13 money-laundering and counter-terrorist-financ-
14 ing exam and supervision priorities.

15 “(M) Give and receive feedback to and
16 from financial institutions and State bank su-
17 pervisors regarding the matters addressed in
18 subchapter II of chapter 53 and regulations
19 issued thereunder.

20 “(N) Maintain a money laundering and
21 terrorist financing investigations team com-
22 prised of financial experts capable of identi-
23 fying, tracking, and tracing financial crime net-
24 works and identifying emerging threats to con-

1 duct and support Federal civil and criminal in-
2 vestigations.

3 “(O) Maintain an emerging technology
4 team comprised of technology experts to en-
5 courage the development of and identify emerg-
6 ing technologies that can assist the United
7 States Government or financial institutions
8 counter money laundering and terrorist financ-
9 ing.”.

10 **SEC. 102. FINCEN COMPENSATION.**

11 Section 310 of title 31, United States Code, is
12 amended—

13 (1) by redesignating subsection (d) as sub-
14 section (h); and

15 (2) by inserting after subsection (c) the fol-
16 lowing:

17 “(d) EMPLOYEE COMPENSATION.—In fixing the com-
18 pensation for employees of FinCEN, the Secretary shall—

19 “(1) fix such compensation without regard to
20 the provisions of chapter 51 or subchapter III of
21 chapter 53 of title 5, United States Code; and

22 “(2) ensure that such compensation is com-
23 parable to the compensation provided by the Board
24 of Governors of the Federal Reserve System, the
25 Bureau of Consumer Financial Protection, the Fed-

1 eral Deposit Insurance Corporation, the National
2 Credit Union Administration, and the Office of the
3 Comptroller of the Currency.”.

4 **SEC. 103. SUBCOMMITTEE ON INNOVATION; INVESTIGATOR**
5 **RESEARCH HUB.**

6 (a) SUBCOMMITTEE ON INNOVATION.—Section 1564
7 of the Annunzio-Wylie Anti-Money Laundering Act (31
8 U.S.C. 5311 note) is amended by adding at the end the
9 following:

10 “(d) SUBCOMMITTEE ON INNOVATION.—

11 “(1) IN GENERAL.—There shall be within the
12 Bank Secrecy Act Advisory Group a subcommittee
13 to be known as the ‘Subcommittee on Innovation’
14 to—

15 “(A) advise the Secretary of the Treasury
16 regarding means by which the Department of
17 the Treasury, FinCEN, and the Federal func-
18 tional regulators can most effectively encourage
19 and support technological innovation in the area
20 of anti-money laundering; and

21 “(B) reduce as much as is possible obsta-
22 cles to innovation that may arise from existing
23 regulations, guidance, and examination prac-
24 tices related to compliance of financial institu-
25 tions with the Bank Secrecy Act.

1 “(2) MEMBERSHIP.—

2 “(A) IN GENERAL.—The subcommittee es-
3 tablished under paragraph (1) shall consist of
4 the representatives of the heads of the Federal
5 functional regulators, a representative cross-sec-
6 tion of financial institutions subject to the
7 Bank Secrecy Act, law enforcement, and
8 FinCEN.

9 “(B) REQUIREMENTS.—Each agency rep-
10 resentative described in subparagraph (A) shall
11 be an individual who has demonstrated knowl-
12 edge and competence concerning the application
13 of the Bank Secrecy Act.”.

14 (b) INVESTIGATOR RESEARCH HUB.—Section 310 of
15 title 31, United States Code, as amended by section 102
16 of this Act, is amended by adding after subsection (d) the
17 following:

18 “(e) INVESTIGATIVE EXPERTS.—

19 “(1) IN GENERAL.—FinCEN shall hire and
20 maintain a team of financial experts capable of iden-
21 tifying, tracking, and tracing money laundering and
22 terrorist-financing networks in order to conduct and
23 support civil and criminal anti-money-laundering
24 and combating-the-financing-of-terrorism investiga-
25 tions conducted by the United States Government,

1 except that the Inspector General of the Department
2 of the Treasury shall be responsible for hiring and
3 maintaining those experts with respect to audits and
4 inspections of the access and use of data described
5 in subchapter II of chapter 53.

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

13 “(3) STAFFING.—FinCEN shall hire or retain
14 full-time employees, including trained investigative
15 personnel accorded criminal authority and experi-
16 enced with subchapter II of chapter 53 to perform
17 the functions contemplated by this subsection, except
18 as provided in paragraph (1).”.

19 **SEC. 104. ESTABLISHMENT OF FINCEN FINANCIAL INSTITU-**
20 **TION LIAISON.**

21 Section 310 of title 31, United States Code, as
22 amended by sections 102 and 103 of this Act, is amended
23 by adding after subsection (e) the following:

24 “(f) OFFICE OF THE FINANCIAL INSTITUTION LIAI-
25 SON ESTABLISHED.—There is established within FinCEN

1 the Office of the Financial Institution Liaison (in this sub-
2 section referred to as the ‘Office’).

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

5 “(A) report directly to the Director; and

6 “(B) be appointed by the Director, from
7 among individuals having experience or famili-
8 arity with anti-money-laundering-program ex-
9 aminations, supervision and enforcement, and
10 prior employment with financial institutions
11 handling such matters.

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

16 “(3) STAFF OF OFFICE.—The Liaison, with the
17 concurrence of the Director, may retain or employ
18 counsel, research staff, and service staff, as the Liai-
19 son deems necessary to carry out the functions, pow-
20 ers, and duties of the Office.

21 “(4) FUNCTIONS OF THE LIAISON.—

22 “(A) IN GENERAL.—The Liaison shall—

23 “(i) receive feedback from financial
24 institutions and bank examiners regarding
25 their examinations under the Bank Secrecy

1 Act and communicate that feedback to
2 FinCEN, the Federal functional regu-
3 lators, and State bank supervisors;

4 “(ii) help promote coordination and
5 consistency of supervisory guidance from
6 FinCEN, the Federal functional regu-
7 lators, and State bank supervisors regard-
8 ing the Bank Secrecy Act;

9 “(iii) act as a liaison between finan-
10 cial institutions and their Federal func-
11 tional regulators and State bank super-
12 visors with respect to matters involving the
13 Bank Secrecy Act and regulations issued
14 thereunder;

15 “(iv) establish safeguards to maintain
16 the confidentiality of communications be-
17 tween the persons described in subpara-
18 graph (B) and the Liaison;

19 “(v) analyze the potential impact on
20 financial institutions of proposed regula-
21 tions of FinCEN; and

22 “(vi) to the extent practicable, pro-
23 pose to FinCEN changes in the regula-
24 tions, guidance, or orders of FinCEN and
25 to Congress any legislative or administra-

1 tive changes that may be appropriate to
2 mitigate problems identified under this
3 paragraph.

4 “(B) RULE OF CONSTRUCTION.—Nothing
5 in this paragraph may be construed to permit
6 the Liaison to have authority over supervision,
7 examination, or enforcement processes.

8 “(5) ACCESS TO DOCUMENTS.—FinCEN shall,
9 to the extent practicable and consistent with appro-
10 priate safeguards for sensitive enforcement-related,
11 pre-decisional, or deliberative information, ensure
12 that the Liaison has full access to the documents of
13 FinCEN, as necessary to carry out the functions of
14 the Office.

15 “(6) ANNUAL REPORTS.—

16 “(A) IN GENERAL.—Not later than June
17 30 of each year after 2019, the Liaison shall
18 submit to the Committee on Banking, Housing,
19 and Urban Affairs of the Senate and the Com-
20 mittee on Financial Services of the House of
21 Representatives a report on the objectives of
22 the Liaison for the following fiscal year and the
23 activities of the Liaison during the immediately
24 preceding fiscal year.

1 “(B) CONTENTS.—Each report required
2 under subparagraph (A) shall include—

3 “(i) appropriate statistical information
4 and full and substantive analysis;

5 “(ii) information on steps that the Li-
6 aison has taken during the reporting pe-
7 riod to address feedback received by finan-
8 cial institutions and bank examination per-
9 sonnel related to examinations under the
10 Bank Secrecy Act;

11 “(iii) recommendations for such ad-
12 ministrative and legislative actions as may
13 be appropriate to resolve problems encoun-
14 tered by financial institutions or bank ex-
15 amination personnel; and

16 “(iv) any other information, as deter-
17 mined appropriate by the Liaison.

18 “(C) SENSITIVE INFORMATION.—Notwith-
19 standing subparagraph (D), FinCEN shall re-
20 view the report listed in subparagraph (A) to
21 ensure the report does not disclose sensitive in-
22 formation.

23 “(D) INDEPENDENCE.—

24 “(i) IN GENERAL.—Each report re-
25 quired under this subsection shall be pro-

1 vided directly to the Committees listed in
2 subparagraph (A) without any prior review
3 or comment from FinCEN, the Director,
4 any Federal functional regulator, any State
5 bank supervisor, or the Office of Manage-
6 ment and Budget.

7 “(ii) RULE OF CONSTRUCTION.—
8 Nothing in clause (i) may be construed to
9 preclude FinCEN or any other department
10 or agency from reviewing a report required
11 under this subsection for the sole purpose
12 of protecting—

13 “(I) sensitive information ob-
14 tained by a law enforcement agency;
15 and

16 “(II) classified information.

17 “(E) CLASSIFIED INFORMATION.—No re-
18 port required under subparagraph (A) may con-
19 tain classified information.”.

20 **SEC. 105. INTERAGENCY AML-CFT PERSONNEL ROTATION**
21 **PROGRAM.**

22 (a) PURPOSE.—The purpose of this section is to in-
23 crease the efficiency and effectiveness of the Federal Gov-
24 ernment by fostering greater interagency experience

1 among Federal Government personnel on anti-money
2 laundering and counter-terrorist financing matters.

3 (b) DEFINITION.—In this section, the term “AML-
4 CFT Interagency Community of Interest” means a set of
5 positions in the Federal Government that, as designated
6 by the Secretary, the heads of the Federal functional regu-
7 lators, the Attorney General, the Director of the Federal
8 Bureau of Investigation, the Secretary of Homeland Secu-
9 rity, the Director of National Intelligence, the Secretary
10 of Defense, and the heads of such other agencies as the
11 Secretary determines to be appropriate—

12 (1) spans multiple agencies of the Federal Gov-
13 ernment;

14 (2) has significant responsibility for sub-
15 stantive, functional, or regional subject areas related
16 to combating money laundering or financing of ter-
17 rorism and would benefit from an integrated ap-
18 proach or activities across multiple agencies; and

19 (3) includes positions within FinCEN, the De-
20 partment of the Treasury, the Department of Jus-
21 tice, the Federal Bureau of Investigation, the De-
22 partment of Homeland Security, the Department of
23 Defense, and, if agreed to by the heads of such
24 agencies, positions within any Federal functional
25 regulator.

1 (c) PROGRAM ESTABLISHED.—

2 (1) IN GENERAL.—Not later than 270 days
3 after the date of the enactment of this Act, the Sec-
4 retary and representatives of the Federal functional
5 regulators, the Department of Justice, the Federal
6 Bureau of Investigation, the Department of Home-
7 land Security, the Department of Defense, and such
8 other agencies as the Secretary determines to be ap-
9 propriate, shall develop and issue an AML-CFT per-
10 sonnel strategy providing policies, processes, and
11 procedures for a program enabling the interagency
12 rotation of personnel among positions within the
13 AML-CFT Interagency Community of Interest.

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

16 (A) identify a specific AML-CFT Inter-
17 agency Community of Interest for the purpose
18 of carrying out the program;

19 (B) designate agencies to be included or
20 excluded from the program;

21 (C) define categories of positions to be cov-
22 ered by the program;

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

1 (i) positions within an AML-CFT
2 Interagency Community of Interest that
3 are available for rotation under the pro-
4 gram; and

5 (ii) individual employees who are
6 available to participate in rotational as-
7 signments under the program; and

8 (E) establish procedures for the program,
9 including—

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

12 (ii) any training and educational re-
13 quirements associated with participation in
14 the program;

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

17 (iv) appropriate performance meas-
18 ures, reporting requirements, and other ac-
19 countability devices for the evaluation of
20 the program.

21 (d) PROGRAM REQUIREMENTS.—The policies, proc-
22 esses, and procedures established pursuant to subsection
23 (c) shall, at a minimum, provide that—

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

1 (A) the interagency rotation program shall
2 be carried out in at least 4 agencies partici-
3 pating in the AML-CFT Interagency Commu-
4 nity of Interest; and

5 (B) not fewer than 20 employees in the
6 Federal Government shall be assigned to par-
7 ticipate in the interagency personnel rotation
8 program;

9 (2) the participation of an employee in the
10 interagency rotation program shall require the con-
11 sent of the head of the agency and shall be voluntary
12 on the part of the employee;

13 (3) employees selected to perform interagency
14 rotational service are selected in a fully open and
15 competitive manner that is consistent with the merit
16 system principles set forth in paragraphs (1) and (2)
17 of section 2301(b) of title 5, United States Code,
18 unless the AML-CFT Interagency Community of In-
19 terest position is otherwise exempt under another
20 provision of law;

21 (4) an employee performing service in a position
22 in another agency pursuant to the program estab-
23 lished under this section shall be entitled to return,
24 within a reasonable period of time after the end of
25 the period of service, to the position held by the em-

1 ployee, or a corresponding or higher position, in the
2 employing agency of the employee;

3 (5) an employee performing interagency rota-
4 tional service shall have all the rights that would be
5 available to the employee if the employee were de-
6 tailed or assigned under a provision of law other
7 than this section from the agency employing the em-
8 ployee to the agency in which the position in which
9 the employee is serving is located; and

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

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

19 (B) provided the same weight in the re-
20 ceipt of promotions and other rewards by the
21 employee from the employing agency as per-
22 formance evaluations for service in the employ-
23 ing agency.

24 (e) SELECTION OF INDIVIDUALS TO FILL SENIOR
25 POSITIONS.—The head of each agency participating in the

1 program established pursuant to subsection (c) shall en-
2 sure that, in selecting individuals to fill senior positions
3 within the AML-CFT Interagency Community of Interest,
4 the agency gives a strong preference to individuals who
5 have performed interagency rotational service within the
6 AML-CFT Interagency Community of Interest pursuant
7 to such program.

8 **SEC. 106. SUBCOMMITTEE ON PRIVACY AND CIVIL LIB-**
9 **ERTIES.**

10 Section 1564 of the Annunzio-Wylie Anti-Money
11 Laundering Act (31 U.S.C. 5311 note), as amended by
12 section 103 of this Act, is amended by adding at the end
13 the following:

14 “(e) SUBCOMMITTEE ON PRIVACY AND CIVIL LIB-
15 ERTIES.—

16 “(1) IN GENERAL.—There shall be within the
17 Bank Secrecy Act Advisory Group a subcommittee
18 to be known as the ‘Subcommittee on Privacy and
19 Civil Liberties’, to advise the Secretary of the Treas-
20 ury regarding the civil liberties and privacy implica-
21 tions of regulations, guidance, information sharing
22 programs, and the examination for compliance with
23 and enforcement of the provisions of the Bank Se-
24 crecy Act.

25 “(2) MEMBERSHIP.—

1 “(A) IN GENERAL.—The subcommittee es-
2 tablished under paragraph (1) shall consist of
3 the representatives of the heads of the Federal
4 functional regulators, a representative cross-sec-
5 tion of financial institutions subject to the
6 Bank Secrecy Act, law enforcement, and
7 FinCEN.

8 “(B) REQUIREMENTS.—Each agency rep-
9 resentative described in subparagraph (A) shall
10 be an individual who has demonstrated knowl-
11 edge and competence concerning the application
12 of the Bank Secrecy Act and familiarity with
13 and expertise in applicable privacy laws.

14 “(f) DEFINITIONS.—In this section:

15 “(1) BANK SECRECY ACT.—the term ‘Bank Se-
16 crecy Act’ has the meaning given the term in section
17 3 of the ILLICIT CASH Act.

18 “(2) FEDERAL FUNCTIONAL REGULATOR.—The
19 term ‘Federal functional regulator’ has the meaning
20 given the term in section 509 of the Gramm-Leach-
21 Bliley Act (15 U.S.C. 6809).

22 “(3) FINCEN.—The term ‘FinCEN’ means the
23 Financial Crimes Enforcement Network of the De-
24 partment of the Treasury.

1 “(4) FINANCIAL INSTITUTION.—The term ‘fi-
2 nancial institution’ has the meaning given the term
3 in section 5312 of title 31, United States Code.”.

4 **SEC. 107. INTERNATIONAL COORDINATION.**

5 The Secretary shall work with the foreign counter-
6 parts of the Secretary, including through the Financial
7 Action Task Force, the International Monetary Fund, the
8 World Bank, and the United Nations, to promote stronger
9 anti-money laundering frameworks and enforcement of
10 anti-money laundering laws.

11 **SEC. 108. STRENGTHENING FINCEN.**

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

13 (1) The mission of FinCEN is to safeguard the
14 financial system from illicit use, combat money laun-
15 dering, and promote national security through the
16 collection, analysis, and dissemination of financial
17 intelligence and strategic use of financial authorities.

18 (2) In its mission to safeguard the financial
19 system from the abuses of financial crime, including
20 terrorist financing, money laundering, and other il-
21 licit activity, the United States should prioritize
22 working with partners in Federal, State, local, Trib-
23 al, and foreign law enforcement authorities.

24 (3) The Federal Bureau of Investigation has
25 stated that, since the terror attacks on September

1 11, 2001, “The threat landscape has expanded con-
2 siderably, though it is important to note that the
3 more traditional threat posed by al Qaeda and its af-
4 filiates is still present and active. The threat of do-
5 mestic terrorism also remains persistent overall, with
6 actors crossing the line from First Amendment pro-
7 tected rights to committing crimes to further their
8 political agenda.”.

9 (4) Although the use and trading of virtual cur-
10 rencies are legal practices, some terrorists and crimi-
11 nals, including international criminal organizations,
12 seek to exploit vulnerabilities in the global financial
13 system and are increasingly using emerging payment
14 methods such as virtual currencies to move illicit
15 funds.

16 (5) In carrying out its mission, FinCEN should
17 prioritize all forms of terrorism and emerging meth-
18 ods of terrorism and illicit finance.

19 (b) STRENGTHENING FINCEN.—Section 310(b)(2)
20 of title 31, United States Code, is amended—

21 (1) in subparagraphs (C), (E), and (F), by in-
22 sserting “Tribal,” after “local,” each place the term
23 appears; and

24 (2) in subparagraph (C)(vi), by striking “inter-
25 national”.

1 **TITLE II—IMPROVING AML-CFT**
2 **COMMUNICATION, OVER-**
3 **SIGHT, AND PROCESSES**

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

5 (a) ANNUAL REPORT.—Not later than 1 year after
6 the date of enactment of this Act, and annually thereafter,
7 the Attorney General, in consultation with Federal law en-
8 forcement agencies and the Director of National Intel-
9 ligence, shall, to the extent practicable at the discretion
10 of the Attorney General, provide to the Secretary statis-
11 tics, metrics, and other information on the use of data
12 derived from financial institutions reporting under this
13 title, including—

14 (1) the frequency with which such data contains
15 actionable information that leads to further law en-
16 forcement procedures, including the use of a sub-
17 poena, warrant, or other legal process, or to actions
18 taken by intelligence, defense, or homeland security
19 agencies;

20 (2) calculations of the time between when data
21 is reported by a financial institution and when it is
22 used by law enforcement, intelligence, defense, or
23 homeland security agencies, whether through the use
24 of a subpoena, warrant or other legal process, or ac-
25 tions;

1 (3) the value of the transactions associated with
2 such data, including whether the suspicious accounts
3 were held by legal entities or natural persons, and
4 whether there are trends and patterns in cross-bor-
5 der transactions to certain countries;

6 (4) the number of legal and natural persons
7 identified by such data;

8 (5) information on the extent to which arrests,
9 indictments, convictions, or criminal pleas, civil en-
10 forcement or forfeiture actions, or actions by intel-
11 ligence, defense, or homeland security agencies re-
12 sult from the use of such data;

13 (6) data on the investigations carried out by
14 State and Federal authorities.

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

22 (c) **TRENDS, PATTERNS, AND THREATS.**—The report
23 described in subsection (a) and the section described in
24 subsection (b) shall contain a description of retrospective
25 trends and emerging patterns and threats in money laun-

1 dering and terrorist financing, including national and re-
2 gional trends, patterns, and threats relevant to such class-
3 es of financial institutions that the Attorney General de-
4 termines appropriate.

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

8 (1) to help assess the usefulness of Bank Se-
9 crecy Act reporting to criminal and civil law enforce-
10 ment and to intelligence, defense, and homeland se-
11 curity agencies;

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

18 (3) to assist FinCEN in considering revisions to
19 the reporting requirements promulgated under sec-
20 tion 314(d) of the USA PATRIOT Act (31 U.S.C.
21 5311 note); and

22 (4) for any other purpose the Secretary deter-
23 mines is appropriate.

1 **SEC. 202. LAW ENFORCEMENT FEEDBACK ON SUSPICIOUS**
2 **ACTIVITY REPORTS.**

3 (a) FEEDBACK.—The staff of FinCEN shall, to the
4 extent practicable, periodically solicit feedback from indi-
5 viduals designated under section 5318(h)(1) of title 31,
6 United States Code, from a variety of financial institutions
7 representing a cross-section of the reporting industry to
8 review the suspicious activity reports filed by the financial
9 institutions and discuss trends in suspicious activity ob-
10 served by FinCEN.

11 (1) FEEDBACK REQUIRED.—The staff of
12 FinCEN shall disclose to the persons designated
13 under section 5318(h)(1) of title 31, United States
14 Code, what actions have been taken, if any, by Fed-
15 eral or State criminal or civil law enforcement or by
16 defense or homeland security agencies with respect
17 to the suspicious activity reports filed by the finan-
18 cial institution during the previous period.

19 (2) EXCEPTION FOR ONGOING INVESTIGA-
20 TIONS.—FinCEN shall not be required to disclose to
21 the financial institution any information under sub-
22 section (a)(1) that could jeopardize an ongoing in-
23 vestigation or national security.

24 (3) MAINTENANCE OF STATISTICS.—FinCEN
25 shall keep records of all such actions taken under
26 paragraph (1) to assist with the production of the

1 reports described in section 201 and for other pur-
2 poses.

3 (b) COORDINATION WITH FEDERAL FUNCTIONAL
4 REGULATORS AND STATE BANK SUPERVISORS.—Any
5 meeting described in subsection (a) shall be conducted in
6 the presence of the Federal functional regulators or the
7 State bank supervisor of the financial institution and, if
8 applicable, during the regularly scheduled examination of
9 the financial institution by the Federal functional regu-
10 lator or State bank supervisor.

11 (c) COORDINATION WITH DEPARTMENT OF JUS-
12 TICE.—The information disclosed by FinCEN under sub-
13 section (a) shall include information from the Department
14 of Justice regarding its review and use of suspicious activ-
15 ity reports filed by the financial institutions during the
16 previous period and any trends in suspicious activity ob-
17 served by the Department of Justice, and such informa-
18 tion shall include information specifically relevant to re-
19 ports filed by such financial institution in the previous pe-
20 riod and other information tailored to such financial insti-
21 tution.

1 **SEC. 203. STREAMLINING REQUIREMENTS FOR CURRENCY**
2 **TRANSACTION REPORTS AND SUSPICIOUS**
3 **ACTIVITY REPORTS.**

4 (a) REVIEW.—The Secretary, in consultation with the
5 Attorney General, Federal law enforcement agencies, the
6 Director of National Intelligence, the Secretary of De-
7 fense, Secretary of Homeland Security, the Federal func-
8 tional regulators, State bank supervisors, and other rel-
9 evant stakeholders, shall undertake a formal review of the
10 current financial institution reporting requirements, in-
11 cluding the processes used to submit reports, under the
12 Bank Secrecy Act, regulations implementing that Act, and
13 related guidance, and make changes to them to reduce un-
14 necessarily burdensome regulatory requirements and en-
15 sure that the information provided is highly useful to law
16 enforcement, intelligence, or national security matters, as
17 set forth in section 5311 of title 31, United States Code.

18 (b) CONTENTS.—The review required under sub-
19 section (a) shall include a study of—

20 (1) whether the circumstances under which a fi-
21 nancial institution determines whether to file a con-
22 tinuing suspicious activity report, including insider
23 abuse, or the processes followed by a financial insti-
24 tution in determining whether to file a continuing
25 suspicious activity report, or both, should be ad-
26 justed;

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

3 (3) the fields designated as critical on the sus-
4 picious activity report form and whether the number
5 or nature of the fields should be adjusted;

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

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

15 (6) the most appropriate ways to promote fi-
16 nancial inclusion and address the adverse con-
17 sequences of financial institutions de-risking entire
18 categories of high-risk relationships, including char-
19 ities, embassy accounts, and money service busi-
20 nesses, as defined in section 1010.100(ff) of title 31,
21 Code of Federal Regulations, and certain groups of
22 correspondent banks;

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

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

9 (9) the appropriate confidentiality of personal
10 information;

11 (10) how to improve the cross-referencing of in-
12 dividuals or entities operating at multiple financial
13 institutions and across international borders; and

14 (11) any other item the Secretary determines is
15 appropriate.

16 (c) PUBLIC COMMENT.—The Secretary shall solicit
17 public comment as part of the review contemplated in sub-
18 section (a).

19 (d) REPORT.—Not later than the end of the 1-year
20 period beginning on the date of the enactment of this Act,
21 the Secretary, in consultation with law enforcement, shall
22 submit to Congress a report that contains all findings and
23 determinations made in carrying out the review required
24 under subsection (a) and propose rulemakings to imple-
25 ment their findings.

1 **SEC. 204. CURRENCY TRANSACTION REPORT AND SUS-**
2 **PICIOUS ACTIVITY REPORT THRESHOLDS RE-**
3 **VIEW.**

4 (a) REVIEW OF THRESHOLDS FOR CERTAIN CUR-
5 RENCY TRANSACTION AND SUSPICIOUS ACTIVITY RE-
6 PORTS.—The Secretary, in consultation with the Attorney
7 General and the Director of National Intelligence, the Sec-
8 retary of Defense, and the Secretary of Homeland Secu-
9 rity, shall study and determine whether the dollar thresh-
10 olds, including aggregate thresholds, contained in sections
11 5313, 5331, and 5318(g) of title 31, United States Code,
12 including regulations issued thereunder, should be ad-
13 justed.

14 (b) CONSIDERATIONS.—In making the determina-
15 tions described in subsection (a), the Secretary and the
16 Attorney General shall consider—

17 (1) the effects on law enforcement, intelligence,
18 defense, and homeland security, from adjusting the
19 thresholds;

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

22 (3) the conformance of the United States with
23 international norms and standards to counter money
24 laundering and the financing of terrorism; and

1 (4) any other factor the Secretary, Director of
2 National Intelligence, and the Attorney General con-
3 siders relevant.

4 (c) PUBLIC COMMENT.—The Secretary shall solicit
5 public comment as part of the review contemplated in sub-
6 section (a).

7 (d) REPORT AND RULEMAKINGS.—Not later than the
8 end of the 1-year period beginning on the date of enact-
9 ment of this Act, the Secretary, in consultation with the
10 Attorney General, the intelligence community, the Sec-
11 retary of Defense, and the Secretary of Homeland Secu-
12 rity, shall publish a report of the findings from the review
13 described in subsection (a) and recommend rulemakings
14 to implement the findings.

15 **SEC. 205. REVIEW OF REGULATIONS AND GUIDANCE.**

16 (a) IN GENERAL.—The Secretary and the Federal
17 functional regulators, in consultation with Federal finan-
18 cial regulators, the Federal Financial Institutions Exam-
19 ination Council, the Attorney General, Federal law en-
20 forcement agencies, the Director of National Intelligence,
21 the Secretary of Defense, the Secretary of Homeland Se-
22 curity, and the Commissioner of the Internal Revenue
23 Service, shall each undertake a formal review of the regu-
24 lations implementing the Bank Secrecy Act, and guidance
25 related to that Act, to identify those regulations and guid-

1 ance that may be outdated, redundant, unnecessarily bur-
2 densome, or otherwise do not promote a risk-based anti-
3 money-laundering compliance and countering-the-financ-
4 ing-of-terrorism regime for financial institutions, or that
5 do not conform with the commitments of the United
6 States to meet international standards to combat money
7 laundering, financing of terrorism, or tax evasion, and
8 make appropriate changes to those regulations and guid-
9 ance.

10 (b) PUBLIC COMMENT.—The Secretary shall solicit
11 public comment as part of the review required under sub-
12 section (a).

13 (c) REPORT.—Not later than the end of the 1-year
14 period beginning on the date of the enactment of this Act,
15 the Secretary, the Federal functional regulators, the Fed-
16 eral Financial Institutions Examination Council, and the
17 Internal Revenue Service shall submit to Congress 1 or
18 more reports that contain all findings and determinations
19 made in carrying out the review required under subsection
20 (a).

21 **SEC. 206. PENALTY COORDINATION.**

22 (a) COORDINATION ON PENALTIES.—Prior to any
23 Federal functional regulator, FinCEN, or the Department
24 of Justice, including any organizational unit thereof,
25 issuing a fine or civil money penalty, with respect to an

1 entity to address any actual or alleged violation of any
2 provision of the Bank Secrecy Act or section 8(s) of the
3 Federal Deposit Insurance Act (12 U.S.C. 1818(s)) or any
4 unsafe or unsound practice that resulted in any such ac-
5 tual or alleged violation, such Federal department or agen-
6 cy shall endeavor to coordinate its penalty with all relevant
7 Federal departments and agencies and State law enforce-
8 ment and financial regulators contemplating a penalty
9 with respect to the same or similar conduct and attempt
10 to develop a comprehensive or coordinated penalty or set
11 of penalties to avoid duplicative fines, penalties, and other
12 orders or actions.

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

14 (1) a Federal or State financial regulator deter-
15 mines that complying with subsection (a) is imprac-
16 tical for safety or soundness reasons; or

17 (2) a Federal law enforcement or a national se-
18 curity agency determines that complying with sub-
19 section (a) is impractical for Federal law enforce-
20 ment or national security reasons or for purposes re-
21 lated to the administration of the Bank Secrecy Act.

22 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed as limiting the amount of a fine
24 or the type of penalty that may be issued by any Federal
25 or State entity with authority to issue a fine or penalty.

1 (d) NO RIGHTS.—Nothing in this section provides
2 persons with any rights or privileges, including a private
3 right of action or an affirmative defense, and no deter-
4 mination or failure to make a determination by any Fed-
5 eral entity or officer under this section shall be reviewable
6 by a court of law.

7 **SEC. 207. COOPERATION WITH LAW ENFORCEMENT.**

8 (a) SAFE HARBOR WITH RESPECT TO KEEP OPEN
9 DIRECTIVES.—

10 (1) IN GENERAL.—

11 (A) AMENDMENT TO TITLE 31.—Sub-
12 chapter II of chapter 53 of title 31, United
13 States Code, is amended by adding at the end
14 the following:

15 **“§ 5333. Safe harbor with respect to keep open direc-**
16 **tives**

17 “(a) IN GENERAL.—With respect to a customer ac-
18 count or customer transaction of a financial institution,
19 if a Federal, State, Tribal, or local law enforcement agen-
20 cy requests, in writing, that the financial institution keep
21 that account or transaction open—

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

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

6 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion may be construed—

8 “(1) to prevent a Federal or State department
9 or agency from verifying the validity of a written re-
10 quest described in subsection (a) with the Federal,
11 State, Tribal, or local law enforcement agency mak-
12 ing that written request; or

13 “(2) to relieve a financial institution from com-
14 plying with any reporting requirements, including
15 the reporting of suspicious transactions under sec-
16 tion 5318(g).

17 “(c) LETTER TERMINATION DATE.—For the pur-
18 poses of this section, any written request described in sub-
19 section (a) shall include a termination date after which
20 that request shall no longer apply.”.

21 (B) AMENDMENT TO PUBLIC LAW 91–
22 508.—Chapter 2 of title I of Public Law 91–508
23 (12 U.S.C. 1951 et seq.) is amended by adding
24 at the end the following:

1 **“§ 130. Safe harbor with respect to keep open direc-**
2 **tives**

3 “(a) DEFINITION.—In this section, the term ‘finan-
4 cial institution’ has the meaning given the term in section
5 123(b).

6 “(b) SAFE HARBOR.—With respect to a customer ac-
7 count or customer transaction of a financial institution,
8 if a Federal, State, Tribal, or local law enforcement agen-
9 cy requests, in writing, the financial institution to keep
10 that account or transaction open—

11 “(1) the financial institution shall not be liable
12 under this chapter for maintaining that account or
13 transaction consistent with the parameters of the re-
14 quest; and

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

20 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion may be construed—

22 “(1) as preventing a Federal or State depart-
23 ment or agency from verifying the validity of a writ-
24 ten request described in subsection (b) with the Fed-
25 eral, State, Tribal, or local law enforcement agency
26 making that written request; or

1 “(2) to relieve a financial institution from com-
2 plying with any reporting requirements, including
3 the reporting of suspicious transactions under sec-
4 tion 5318(g) of title 31, United States Code.

5 “(d) LETTER TERMINATION DATE.—For the pur-
6 poses of this section, any written request described in sub-
7 section (b) shall include a termination date after which
8 that request shall no longer apply.”.

9 (2) CLERICAL AMENDMENTS.—

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

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

14 (B) PUBLIC LAW 91-508.—The table of
15 contents for chapter 2 of title I of Public Law
16 91-508 (12 U.S.C. 1951 et seq.) is amended by
17 adding at the end the following:

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

18 (b) DETERMINATION OF BUDGETARY EFFECTS.—
19 The budgetary effects of this section, for the purpose of
20 complying with the Statutory Pay-As-You-Go Act of 2010,
21 shall be determined by reference to the latest statement
22 titled “Budgetary Effects of PAYGO Legislation” for this
23 Act, submitted for printing in the Congressional Record
24 by the Chairman of the House Budget Committee, pro-

1 vided that such statement has been submitted prior to the
2 vote on passage.

3 **SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
4 **CRECY ACT VIOLATORS.**

5 Section 5321 of title 31, United States Code, is
6 amended by adding at the end the following:

7 “(f) **ADDITIONAL DAMAGES FOR REPEAT VIOLA-**
8 **TORS.**—In addition to any other fines permitted by this
9 section and section 5322, with respect to a person who
10 has previously violated a provision of (or rule issued
11 under) this subchapter, section 21 of the Federal Deposit
12 Insurance Act (12 U.S.C. 1829b), or section 123 of Public
13 Law 91–508, the Secretary of the Treasury may impose
14 an additional civil penalty against such person for each
15 additional such violation in an amount equal to up to three
16 times the profit gained or loss avoided by such person as
17 a result of the violation.”.

18 **SEC. 209. ENCOURAGING INFORMATION SHARING AND PUB-**
19 **LIC-PRIVATE PARTNERSHIPS.**

20 (a) **IN GENERAL.**—FinCEN shall convene a super-
21 visory team of relevant Federal agencies, private sector ex-
22 perts in banking, national security and law enforcement,
23 and other stakeholders as FinCEN deems appropriate to
24 examine strategies to increase public-private sector co-

1 operation for purposes of countering proliferation finance
2 and sanctions evasion.

3 (b) MEETINGS.—The supervisory team shall meet pe-
4 riodically to advise on strategies to combat proliferation
5 financing risk.

6 **TITLE III—MODERNIZATION OF** 7 **AML/CFT SYSTEM**

8 **SEC. 301. APPROVED SYSTEMS FOR IDENTIFYING SUS-** 9 **PICIOUS ACTIVITIES.**

10 Section 5318(g) of title 31, United States Code, is
11 amended by adding at the end the following:

12 “(5) CONSIDERATIONS IN IMPOSING REPORTING
13 REQUIREMENTS.—

14 “(A) IN GENERAL.—In imposing any re-
15 quirement to report any suspicious transaction
16 under this subsection, the Secretary of the
17 Treasury, in consultation with appropriate rep-
18 resentatives of State bank supervisors and the
19 Federal functional regulators (as defined in 509
20 of the Gramm-Leach-Bliley Act (15 U.S.C.
21 6809)), shall address, consider, and include—

22 “(i) the national priorities established
23 by the Secretary;

24 “(ii) whether the reporting is likely to
25 have a high degree of usefulness to the

1 Federal law enforcement community, na-
2 tional security, and the intelligence com-
3 munity in combating financial crime, in-
4 cluding the financing of terrorism; and

5 “(iii) the means by or form in which
6 the Secretary shall receive such reporting,
7 including the burdens imposed by such
8 means or form of reporting on persons re-
9 quired to provide such reporting, the effi-
10 ciency of the means by or form of report-
11 ing, and the benefits derived by such
12 means or form of reporting by the Federal
13 law enforcement community and the intel-
14 ligence community in combating financial
15 crime, including the financing of terrorism.

16 “(B) INTERNAL CONTROLS.—Reports filed
17 under this subsection shall be guided by the in-
18 ternal controls of the compliance program of a
19 covered institution with respect to the Bank Se-
20 crecy Act, including the risk assessment proc-
21 esses of the covered institution that should in-
22 clude a consideration of priority areas as estab-
23 lished by the Secretary of the Treasury pursu-
24 ant to section 5311.

1 “(C) EXAMINATIONS.—Examinations of
2 systems for identifying and reporting of sus-
3 picious activities shall consider, among other
4 things, the quality of information provided
5 under this section and the institution’s consid-
6 eration of priority areas as established by the
7 Secretary of the Treasury pursuant to section
8 5311.

9 “(D) BULK-FORM DATA AND REAL-TIME
10 REPORTING.—

11 “(i) REQUIREMENT TO ESTABLISH
12 SYSTEM.—In considering the means by or
13 form in which the Secretary of the Treas-
14 ury shall receive reporting pursuant to
15 subparagraph (A)(iii) the Secretary of the
16 Treasury, through the Financial Crimes
17 Enforcement Network, and in consultation
18 with appropriate representatives of the
19 State bank supervisors and Federal func-
20 tional regulators (as defined in 509 of the
21 Gramm-Leach-Bliley Act (15 U.S.C.
22 6809)) shall—

23 “(I) establish streamlined proc-
24 esses to permit the filing of non-com-
25 plex categories of reports that—

1 “(aa) reduce burdens im-
2 posed on persons required to re-
3 port; and

4 “(bb) do not diminish the
5 usefulness of the reporting to
6 Federal law enforcement agencies
7 and the intelligence community
8 in combating financial crime, in-
9 cluding the financing of ter-
10 rorism;

11 “(II) subject to clause (ii), per-
12 mit bulk data reporting for such cat-
13 egories of reports and establish the
14 conditions under which bulk data re-
15 porting is permitted; and

16 “(III) establish additional sys-
17 tems and processes that allow for
18 such reporting.

19 “(ii) STANDARDS.—The Secretary of
20 the Treasury—

21 “(I) in carrying out clause (i),
22 shall establish standards to ensure
23 that bulk data reports relate to sus-
24 picious transactions relevant to poten-

1 tial violations of law or regulation;
2 and

3 “(II) in establishing the stand-
4 ards under subclause (I), may con-
5 sider transactions designed to evade
6 any regulation promulgated under this
7 subchapter, certain fund and asset
8 transfers with no apparent economic,
9 business, or lawful purpose, and any
10 other transaction that the Secretary
11 determines to be appropriate.

12 “(iii) RULE OF CONSTRUCTION.—
13 Nothing in this subparagraph may be con-
14 strued as precluding the Secretary of the
15 Treasury from requiring reporting as pro-
16 vided for in subparagraphs (A) and (B) or
17 notifying Federal law enforcement with re-
18 spect to any transaction that the Secretary
19 has determined directly implicates a na-
20 tional priority established by the Secretary.

21 “(6) AML TECHNOLOGY RULEMAKING.—The
22 Secretary of the Treasury shall, in consultation with
23 appropriate representatives of State bank super-
24 visors and Federal functional regulators (as defined

1 in section 509 of the Gramm-Leach-Bliley Act (15
2 U.S.C. 6809)), promulgate regulations to—

3 “(A) specify an optional regime whereby a
4 financial institution may submit for approval by
5 the Financial Crimes Enforcement Network, in
6 consultation with the Federal banking agencies,
7 a tailored comprehensive approach to moni-
8 toring transactions for the recordkeeping and
9 reporting requirements established by this sub-
10 chapter and other relevant laws;

11 “(B) standards that such an optional re-
12 gime must meet for approval, with those stand-
13 ards having the primary goal of addressing
14 anti-money-laundering-regime priorities and
15 other significant Bank Secrecy Act and anti-
16 money-laundering risks identified in a par-
17 ticular financial institution’s (or association of
18 financial institutions) risk assessment;

19 “(C) include in the standards described in
20 subparagraph (B)—

21 “(i) an emphasis on using innovative
22 approaches for transaction monitoring such
23 as machine learning rather than rules-
24 based systems;

1 “(ii) requirements for testing, audit,
2 parallel runs, and ongoing quality assur-
3 ance processes to ensure that these sys-
4 tems are working effectively, including
5 risk-based back-testing of the regime to fa-
6 cilitate calibration of relevant systems;

7 “(iii) requirements for appropriate
8 data privacy and security; and

9 “(iv) requirements for examination of
10 these systems by the appropriate Federal
11 or State financial regulators; and

12 “(D) with respect to technology and proc-
13 esses designed to facilitate compliance with the
14 Bank Secrecy Act requirements that are not
15 covered by subparagraph (A), specify that fi-
16 nancial institutions may not be required to test
17 new technology and processes alongside legacy
18 technology and processes, known as parallel
19 runs, in all cases, but instead—

20 “(i) should develop a risk-based imple-
21 mentation and testing plan, in consultation
22 with State and Federal financial regulators
23 as appropriate, that accounts for legal,
24 data privacy, and security concerns that
25 includes a reasonable testing timeline;

1 “(ii) should identify processes and
2 procedures for replacing or terminating
3 any legacy technology and process for any
4 examinable technology or process; and

5 “(iii) after adequately testing compli-
6 ance technology, may replace or terminate
7 any legacy technology and processes for
8 any examinable technology or process.

9 “(7) RULE OF CONSTRUCTION.—Nothing in
10 this subsection may be construed to require a finan-
11 cial institution to alter its risk-based approach to
12 monitoring suspicious activities.

13 “(8) DEFINITIONS.—In this subsection:

14 “(A) BANK SECRECY ACT.—The term
15 ‘Bank Secrecy Act’ has the meaning given the
16 term in section 3 of the ILLICIT CASH Act.

17 “(B) STATE BANK SUPERVISOR.—The
18 term ‘State bank supervisor’ has the meaning
19 given the term in section 3 of the Federal De-
20 posit Insurance Act (12 U.S.C. 1813).”.

21 **SEC. 302. FINANCIAL CRIMES TECH SYMPOSIUM.**

22 (a) PURPOSE.—The purpose of this section is to—
23 (1) promote greater international collaboration
24 in the effort to prevent and detect financial crimes
25 and suspicious activities; and

1 (2) facilitate the investigation and adoption of
2 new technologies aimed at preventing and detecting
3 financial crimes and other illicit activities.

4 (b) PERIODIC MEETINGS.—The Secretary shall, in
5 coordination with the Subcommittee on Innovation estab-
6 lished under subsection (d) of section 1564 of the Annun-
7 zio-Wylie Anti-Money Laundering Act, as added by section
8 103 of this Act, periodically, but not less than once every
9 3 years, convene a global anti-money laundering and fi-
10 nancial crime symposium focused on how new technology
11 can be used to more effectively combat financial crimes
12 and other illicit activities.

13 (c) ATTENDEES.—Attendees at the symposium con-
14 vened under this section shall include domestic and inter-
15 national financial regulators, senior executives from regu-
16 lated firms, technology providers, law enforcement rep-
17 resentatives, start ups, academic institutions, and other
18 representatives as the Secretary determines are appro-
19 priate.

20 (d) PANELS.—The Secretary shall convene panels in
21 order to review new technologies and permit attendees to
22 demonstrate proof of concept.

23 (e) IMPLEMENTATION AND REPORTS.—The Sec-
24 retary shall to the extent practicable work to provide regu-
25 latory guidance regarding innovative technologies and

1 practices presented at the symposium, to the extent such
2 technologies and practices further the goals of this section.

3 **SEC. 303. DEIDENTIFIED AML INFORMATION.**

4 (a) AMENDMENT TO THE GRAMM-LEACH-BLILEY
5 ACT.—Title V of the Gramm-Leach-Bliley Act (15 U.S.C.
6 6801 et seq.) is amended by inserting after section 509
7 (15 U.S.C. 6809) the following:

8 **“SEC. 509A. DEIDENTIFIED AML INFORMATION.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) CYBERSECURITY PURPOSE.—The term ‘cy-
11 bersecurity purpose’ has the meaning given the term
12 in section 102 of the Cybersecurity Information
13 Sharing Act of 2015 (6 U.S.C. 1501).

14 “(2) DE-IDENTIFIED INFORMATION.—The term
15 ‘deidentified information’ means information ob-
16 tained by a financial institution from which any in-
17 formation that may be used to identify a person has
18 been removed and with respect to which there is no
19 reasonable basis to believe that the information is
20 nonpublic personal information.

21 “(3) FINANCIAL INSTITUTION.—The term ‘fi-
22 nancial institution’—

23 “(A) has the meaning given the term in
24 section 509; and

25 “(B) includes—

1 “(i) a subsidiary, affiliate, or other
2 entity within the corporate organizational
3 structure of a financial institution;

4 “(ii) a person representing or other-
5 wise acting as agent for a financial institu-
6 tion; and

7 “(iii) a group or organization the
8 membership of which is comprised entirely
9 of financial institutions.

10 “(4) EXCEPTIONS.—The Secretary of the
11 Treasury by rule shall establish exceptions to para-
12 graph (2), including setting minimum standards for
13 information that is ineligible for consideration as
14 deidentified information.

15 “(b) PROCESS.—A financial institution may deter-
16 mine that financial institution information is deidentified
17 information only if—

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

22 “(A) applying such principles and methods,
23 determines that the risk is very small that the
24 information could be used, alone or in combina-
25 tion with other reasonably available informa-

1 tion, by an anticipated recipient to identify a
2 person who is a subject of the information; and

3 “(B) documents the methods and results of
4 the analysis that justify such determination; or

5 “(2)(A) appropriate identifiers of the person or
6 of relatives, employers, or household members of the
7 person, are removed; and

8 “(B) the financial institution does not have ac-
9 tual knowledge that the information could be used
10 alone or in combination with other information to
11 identify a person who is a subject of the information.

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

16 “(1) the code or other means of record identi-
17 fication is not derived from or related to information
18 about the person and is not otherwise capable of
19 being translated so as to identify the person; and

20 “(2) the financial institution does not use or
21 disclose the code or other means of record identifica-
22 tion for any other purpose, and does not disclose the
23 mechanism for reidentification.

24 “(d) PERMISSIBLE USE.—

1 “(1) LIMITED USE OF DATA.—Deidentified in-
2 formation sent or received by a financial institution
3 shall only be used—

4 “(A) to identify suspicious activity that
5 may merit the filing of a suspicious activity re-
6 port under section 5318(g) of title 31, United
7 States Code;

8 “(B) for the purpose stated in section
9 5311 of title 31, United States Code; or

10 “(C) for a cybersecurity purpose.

11 “(2) NO FURTHER COMMUNICATION.—A finan-
12 cial institution may not transmit or share any de-
13 identified information except with—

14 “(A) a financial institution in accordance
15 with this section;

16 “(B) the Secretary of the Treasury;

17 “(C) an agency or authority referenced in
18 section 505(a) in accordance with applicable
19 law; and

20 “(D) a law enforcement agency.

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

24 “(f) RULEMAKING.—No later than 1 year after the
25 date of enactment of this section, the Secretary of the

1 Treasury, in consultation with the Secretary of Homeland
2 Security and each agency referenced in section 505(a),
3 shall issue regulations to carry out the amendments made
4 by this section.

5 “(g) RELATION TO SUSPICIOUS ACTIVITY RE-
6 PORTS.—Nothing in this section shall be construed to
7 modify, limit, alter, or supersede section 5318(g) of title
8 31, United States Code, or any regulation promulgated
9 thereunder.

10 “(h) RULE OF CONSTRUCTION.—

11 “(1) IN GENERAL.—Compliance with the provi-
12 sions of this section shall not constitute a violation
13 of other provisions of this title; and

14 “(2) TRANSMISSION, RECEIPT, AND SHARING
15 OF INFORMATION.—A financial institution that
16 transmits, receives, or shares information under this
17 section shall not be liable to any person under any
18 law, or regulation of any State or political subdivi-
19 sion thereof, or under any contract or other legally
20 enforceable agreement (including any arbitration
21 agreement), for such disclosure or for any failure to
22 provide notice of such disclosure, or any other per-
23 son identified in the disclosure, except where such
24 transmission, receipt, or sharing violates this section
25 or regulations promulgated under this section.”.

1 **SEC. 304. NO ACTION LETTERS.**

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

5 “(g) NO-ACTION LETTERS WITH RESPECT TO SPE-
6 CIFIC CONDUCT.—

7 “(1) IN GENERAL.—The Director and the Fed-
8 eral functional regulators, in consultation with State
9 bank supervisors, shall jointly promulgate regula-
10 tions and guidance to establish a process for the
11 issuance of a no-action letter by FinCEN and the
12 relevant Federal functional regulators in response to
13 an inquiry from a person described in paragraph (2)
14 concerning the application of the Bank Secrecy Act,
15 the USA PATRIOT Act (Public Law 107–56; 115
16 Stat. 272), section 8(s) of the Federal Deposit In-
17 surance Act (12 U.S.C. 1818(s)), or any other anti-
18 money-laundering or counter-terrorism financing law
19 (including regulations) to specific conduct, which
20 shall include a statement as to whether FinCEN or
21 any relevant Federal functional regulator intends to
22 take an enforcement action against the person with
23 respect to such conduct.

24 “(2) PERSONS COVERED.—A person described
25 in this paragraph is—

1 “(A) any person involved in the specific
2 conduct that is the subject of the no-action let-
3 ter; or

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

8 “(3) RELIANCE.—A no-action letter issued
9 under paragraph (1) shall not bind FinCEN or any
10 Federal functional regulator if the person making
11 the inquiry provided incomplete, misleading or false
12 information, if subsequent changes are made to rel-
13 evant statutes, regulations, or guidance, or if a pen-
14 alty was assessed or enforcement action taken before
15 the date on which the no-action letter was issued.

16 “(4) CONTENTS.—The regulations issued under
17 paragraph (1) shall contain a timeline for the proc-
18 ess used to reach a final determination by FinCEN
19 and the relevant Federal functional regulators in re-
20 sponse to a request by a person for a no-action let-
21 ter.

22 “(h) DEFINITIONS.—In this section:

23 “(1) BANK SECRECY ACT.—the term ‘Bank Se-
24 crecy Act’ has the meaning given the term in section
25 3 of the ILLICIT CASH Act.

1 “(2) FEDERAL FUNCTIONAL REGULATOR.—The
2 term ‘Federal functional regulator’ has the meaning
3 given the term in section 509 of the Gramm-Leach-
4 Bliley Act (15 U.S.C. 6809).

5 “(3) FINANCIAL INSTITUTION.—The term ‘fi-
6 nancial institution’ has the meaning given the term
7 in section 5312.

8 “(4) STATE BANK SUPERVISOR.—The term
9 ‘State bank supervisor’ has the meaning given the
10 term in section 3 of the Federal Deposit Insurance
11 Act (12 U.S.C. 1813).”.

12 **SEC. 305. OECD PILOT PROGRAM ON SHARING OF SUS-**
13 **PICIOUS ACTIVITY REPORTS WITHIN A FI-**
14 **NANCIAL GROUP.**

15 (a) IN GENERAL.—

16 (1) SHARING WITH FOREIGN BRANCHES AND
17 AFFILIATES.—Section 5318(g) of title 31, United
18 States Code, as amended by section 301, is amended
19 by adding at the end the following:

20 “(6) OECD PILOT PROGRAM ON SHARING WITH
21 FOREIGN BRANCHES, SUBSIDIARIES, AND AFFILI-
22 ATES.—

23 “(A) IN GENERAL.—Not later than 180
24 days after the date of enactment of this para-
25 graph, the Secretary of the Treasury shall issue

1 rules, subject to such controls and restrictions
2 as the Director of the Financial Crimes En-
3 forcement Network determines appropriate, es-
4 tablishing the pilot program described under
5 subparagraph (B). In prescribing such rules,
6 the Secretary shall ensure that the sharing of
7 information described under subparagraph (B)
8 is subject to appropriate standards and require-
9 ments regarding data security and the confiden-
10 tiality of personally identifiable information.

11 “(B) PILOT PROGRAM DESCRIBED.—The
12 pilot program required under this paragraph
13 shall—

14 “(i) permit any financial institution
15 with a reporting obligation under this sub-
16 section to share reports (and information
17 on such reports) under this subsection with
18 the institution’s foreign branches, subsidi-
19 aries, and affiliates for the purpose of com-
20 bating illicit finance risks, notwithstanding
21 any other provision of law except subpara-
22 graph (C), but only if such foreign branch,
23 subsidiary, or affiliate is located in a juris-
24 diction that is a member of the

1 Organisation for Economic Co-operation
2 and Development;

3 “(ii) terminate on the date that is 5
4 years after the date of enactment of this
5 paragraph, except that the Secretary of the
6 Treasury may extend the pilot program for
7 up to two years upon submitting a report
8 to the Committee on Financial Services of
9 the House of Representatives and the
10 Committee on Banking, Housing, and
11 Urban Affairs of the Senate that in-
12 cludes—

13 “(I) a certification that the ex-
14 tension is in the national interest of
15 the United States, with a detailed ex-
16 planation of the reasons therefor;

17 “(II) an evaluation of the useful-
18 ness of the pilot program, including a
19 detailed analysis of any illicit activity
20 identified or prevented as a result of
21 the program; and

22 “(III) a detailed legislative pro-
23 posal providing for a long-term exten-
24 sion of the pilot program activities, in-
25 cluding expected budgetary resources

1 for the activities, if the Secretary of
2 the Treasury determines that a long-
3 term extension is appropriate.

4 “(C) PROHIBITION INVOLVING CERTAIN
5 JURISDICTIONS.—In issuing the regulations re-
6 quired under subparagraph (A), the Secretary
7 of the Treasury may not permit a financial in-
8 stitution to share information on reports under
9 this subsection with a foreign branch, sub-
10 sidiary, or affiliate located in a jurisdiction
11 that—

12 “(i) is subject to countermeasures im-
13 posed by the Federal Government; or

14 “(ii) the Secretary has determined
15 cannot reasonably protect the privacy and
16 confidentiality of such information.

17 “(D) IMPLEMENTATION UPDATES.—Not
18 later than 360 days after the date on which
19 rules are issued under subparagraph (A), and
20 annually thereafter for 3 years, the Secretary of
21 the Treasury, or the Secretary’s designee, shall
22 brief the Committee on Financial Services of
23 the House of Representatives and the Com-
24 mittee on Banking, Housing, and Urban Affairs
25 of the Senate on—

1 “(i) the degree of any information
2 sharing permitted under the pilot program,
3 and a description of criteria used by the
4 Secretary to evaluate the appropriateness
5 of the information sharing;

6 “(ii) the effectiveness of the pilot pro-
7 gram in identifying or preventing the viola-
8 tion of a United States law or regulation,
9 and mechanisms that may improve such ef-
10 fectiveness; and

11 “(iii) any recommendations to amend
12 the design of the pilot program, or to in-
13 clude specific non-Organisation for Eco-
14 nomic Co-operation and Development juris-
15 dictions in the program.

16 “(7) TREATMENT OF FOREIGN JURISDICTION-
17 ORIGINATED REPORTS.—A report received by a fi-
18 nancial institution from a foreign affiliate with re-
19 spect to a suspicious transaction relevant to a pos-
20 sible violation of law or regulation shall be subject
21 to the same confidentiality requirements provided
22 under this subsection for a report of a suspicious
23 transaction described under paragraph (1).

24 “(8) DEFINITION.—In this subsection, the term
25 ‘affiliate’ means an entity that controls, is controlled

1 by, or is under common control with another enti-
2 ty.”.

3 (2) NOTIFICATION PROHIBITIONS.—Section
4 5318(g)(2)(A) of title 31, United States Code, is
5 amended—

6 (A) in clause (i), by inserting after “trans-
7 action has been reported” the following: “or
8 otherwise reveal any information that would re-
9 veal that the transaction has been reported, in-
10 cluding materials prepared or used by the fi-
11 nancial institution for the purpose of identifying
12 and detecting potentially suspicious activity”;
13 and

14 (B) in clause (ii), by inserting after “trans-
15 action has been reported,” the following: “or
16 otherwise reveal any information that would re-
17 veal that the transaction has been reported, in-
18 cluding materials prepared or used by the fi-
19 nancial institution for the purpose of identifying
20 and detecting potentially suspicious activity,”.

21 (b) RULEMAKING.—Not later than the end of the 1-
22 year period beginning on the date of enactment of this
23 Act, the Secretary shall issue regulations to carry out the
24 amendments made by this section.

1 **SEC. 306. FOREIGN EVIDENTIARY REQUESTS.**

2 (a) FOREIGN EVIDENTIARY REQUESTS.—Section
3 5318(k)(3)(A) of title 31, United States Code, is amended
4 by adding at the end the following:

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

13 “(iv) ANTI-TIP-OFF.—Any foreign
14 bank upon which a summons or subpoena
15 referred to in clause (i) has been served,
16 and any director, officer, employee, or
17 agent of such foreign bank, shall not vol-
18 untarily disclose to a person not employed
19 by the foreign bank the fact that it re-
20 ceived a summons or subpoena or any of
21 the information contained in that summons
22 or subpoena.”.

23 (b) FOREIGN EVIDENTIARY REQUESTS.—Section
24 5318(k)(3) of title 31, United States Code, is amended
25 by adding at the end the following:

26 “(D) COURT ORDERS AND CONTEMPT.—

1 “(i) COURT ORDERS.—If the Sec-
2 retary of the Treasury or the Attorney
3 General (in each case, in consultation with
4 the other) determines that a foreign bank
5 has failed to comply with a summons or
6 subpoena issued under subparagraph (A),
7 the Secretary or the Attorney General (in
8 each case, in consultation with the other)
9 may initiate proceedings in a United
10 States court seeking a court order to com-
11 pel compliance with such summons or sub-
12 poena.

13 “(ii) CONTEMPT.—If the Secretary of
14 the Treasury or the Attorney General (in
15 each case, in consultation with the other)
16 determines that a foreign bank has failed
17 to comply with a court order described in
18 clause (i), the Secretary or the Attorney
19 General (in each case, in consultation with
20 the other) may petition the United States
21 court that issued the court order to levy a
22 civil or criminal contempt fine on the for-
23 eign bank.”.

1 **SEC. 307. UPDATING WHISTLEBLOWER INCENTIVES AND**
2 **PROTECTION.**

3 (a) WHISTLEBLOWER INCENTIVES AND PROTEC-
4 TION.—

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

7 **“§ 5323. Whistleblower incentives and protections**

8 “(a) DEFINITIONS.—In this section:

9 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
10 ACTION.—The term ‘covered judicial or administra-
11 tive action’ means any judicial or administrative ac-
12 tion brought by the Treasury or the Department of
13 Justice under subchapters II and III of this title
14 that results in monetary sanctions exceeding
15 \$1,000,000.

16 “(2) FUND.—The term ‘Fund’ means the Anti-
17 Money Laundering and Counter-Terrorism Financ-
18 ing Fund.

19 “(3) MONETARY SANCTIONS.—The term ‘mone-
20 tary sanctions’, when used with respect to any judi-
21 cial or administrative action, means any monies, in-
22 cluding penalties and interest, ordered to be paid.

23 “(4) ORIGINAL INFORMATION.—The term
24 ‘original information’ means information that—

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

1 “(B) is not known to the Treasury, the
2 Department of Justice, or an appropriate regu-
3 lator, unless the whistleblower is the original
4 source of the information; and

5 “(C) is not exclusively derived from an al-
6 legation made in a judicial or administrative
7 hearing, in a governmental report, hearing,
8 audit, or investigation, or from the news media,
9 unless the whistleblower is a source of the infor-
10 mation.

11 “(5) RELATED ACTION.—The term ‘related ac-
12 tion’, when used with respect to any judicial or ad-
13 ministrative action brought by the Treasury or the
14 Department of Justice under subchapters II and III
15 of this title, means any judicial action brought by an
16 entity that is based upon the original information
17 provided by a whistleblower pursuant to subsection
18 (a) that led to the successful enforcement of the
19 Treasury or Department of Justice action.

20 “(6) WHISTLEBLOWER.—The term ‘whistle-
21 blower’ means any individual who provides, or 2 or
22 more individuals acting jointly who provide, informa-
23 tion relating to a violation of the laws under sub-
24 chapters II and III of this title to the Treasury, in

1 a manner established, by rule or regulation, by the
2 Treasury.

3 “(b) AWARDS.—

4 “(1) IN GENERAL.—In any covered judicial ac-
5 tion, or related action, the Treasury, under regula-
6 tions prescribed by the Treasury and subject to sub-
7 section (c), may pay an award or awards to 1 or
8 more whistleblowers who voluntarily provided origi-
9 nal information to the Treasury that led to the suc-
10 cessful enforcement of the covered judicial or admin-
11 istrative action, or related action, in an aggregate
12 amount equal to—

13 “(A) not less than 10 percent, in total, of
14 what has been collected of the monetary sanc-
15 tions imposed in the action or related actions;
16 and

17 “(B) not more than 30 percent, in total, of
18 what has been collected of the monetary sanc-
19 tions imposed in the action or related actions.

20 “(2) PAYMENT OF AWARDS.—Any amount paid
21 under paragraph (1) shall be paid from the Fund.

22 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
23 NIAL OF AWARD.—

24 “(1) DETERMINATION OF AMOUNT OF
25 AWARD.—

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

4 “(B) CRITERIA.—In determining the
5 amount of an award made under subsection (b),
6 the Treasury —

7 “(i) shall take into consideration—

8 “(I) the significance of the infor-
9 mation provided by the whistleblower
10 to the success of the covered judicial
11 or administrative action;

12 “(II) the degree of assistance
13 provided by the whistleblower and any
14 legal representative of the whistle-
15 blower in a covered judicial or admin-
16 istrative action;

17 “(III) the programmatic interest
18 of the Treasury in deterring violations
19 of the laws under subchapters II and
20 III of this title by making awards to
21 whistleblowers who provide informa-
22 tion that leads to the successful en-
23 forcement of such laws; and

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

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

6 “(2) DENIAL OF AWARD.—No award under
7 subsection (b) shall be made—

8 “(A) to any whistleblower who is, or was at
9 the time the whistleblower acquired the original
10 information submitted to the Treasury, a mem-
11 ber, officer, or employee of—

12 “(i) an appropriate regulatory agency;

13 “(ii) the Department of Justice or the
14 Treasury;

15 “(iii) a self-regulatory organization; or

16 “(iv) a law enforcement organization;

17 “(B) to any whistleblower who is convicted
18 of a criminal violation related to the judicial or
19 administrative action for which the whistle-
20 blower otherwise could receive an award under
21 this section; or

22 “(C) to any whistleblower who fails to sub-
23 mit information to the Treasury in such form
24 as the Treasury may, by rule, require.

25 “(d) REPRESENTATION.—

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

4 “(2) REQUIRED REPRESENTATION.—

5 “(A) IN GENERAL.—Any whistleblower
6 who anonymously makes a claim for an award
7 under subsection (b) shall be represented by
8 counsel if the whistleblower anonymously sub-
9 mits the information upon which the claim is
10 based.

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

17 “(e) NO CONTRACT NECESSARY.—No contract with
18 the Treasury is necessary for any whistleblower to receive
19 an award under subsection (b), unless otherwise required
20 by the Treasury by rule or regulation.

21 “(f) APPEALS.—Any determination made under this
22 section, including whether, to whom, or in what amount
23 to make awards, shall be in the discretion of the Treasury.
24 Any such determination, except the determination of the
25 amount of an award if the award was made in accordance

1 with subsection (b), may be appealed to the appropriate
2 court of appeals of the United States not more than 30
3 days after the determination is issued by the Treasury.
4 The court shall review the determination made by the
5 Treasury in accordance with section 706 of title 5.

6 “(g) ANTI-MONEY LAUNDERING AND COUNTER-TER-
7 RORISM FINANCING FUND.—

8 “(1) FUND ESTABLISHED.—There is estab-
9 lished in the Treasury of the United States a fund
10 to be known as the ‘Anti-Money Laundering and
11 Counter-Terrorism Financing Fund’.

12 “(2) USE OF FUND.—The Fund shall be avail-
13 able to the Treasury, without further appropriation
14 or fiscal year limitation, for paying awards to whis-
15 tleblowers as provided in subsection (b).

16 “(3) DEPOSITS AND CREDITS.—

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

1 “(B) ADDITIONAL AMOUNTS.—If the
2 amounts deposited into or credited to the Fund
3 under subparagraph (A) are not sufficient to
4 satisfy an award made under subsection (b),
5 there shall be deposited into or credited to the
6 Fund an amount equal to the unsatisfied por-
7 tion of the award from any monetary sanction
8 collected by the Treasury or the Department of
9 Justice in the covered judicial or administrative
10 action on which the award is based.

11 “(4) INVESTMENTS.—

12 “(A) AMOUNTS IN FUND MAY BE IN-
13 VESTED.—The Secretary of the Treasury may
14 invest the portion of the Fund that is not, in
15 the discretion of the Secretary of the Treasury,
16 required to meet the current needs of the Fund.

17 “(B) ELIGIBLE INVESTMENTS.—Invest-
18 ments shall be made by the Secretary of the
19 Treasury in obligations of the United States or
20 obligations that are guaranteed as to principal
21 and interest by the United States, with matu-
22 rities suitable to the needs of the Fund as de-
23 termined by the Treasury.

24 “(C) INTEREST AND PROCEEDS CRED-
25 ITED.—The interest on, and the proceeds from

1 the sale or redemption of, any obligations held
2 in the Fund shall be credited to the Fund.

3 “(5) REPORTS TO CONGRESS.—Not later than
4 October 30 of each fiscal year, the Treasury shall
5 submit to the Committee on Banking, Housing, and
6 Urban Affairs of the Senate and the Committee on
7 Financial Services of the House of Representatives
8 a report on—

9 “(A) the whistleblower award program es-
10 tablished under this section, including—

11 “(i) a description of the number of
12 awards granted; and

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

16 “(B) the balance of the Fund at the begin-
17 ning of the preceding fiscal year;

18 “(C) the amounts deposited into or cred-
19 ited to the Fund during the preceding fiscal
20 year;

21 “(D) the amount of earnings on invest-
22 ments made under paragraph (4) during the
23 preceding fiscal year;

1 “(E) the amount paid from the Fund dur-
2 ing the preceding fiscal year to whistleblowers
3 pursuant to subsection (b);

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

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

8 “(i) a balance sheet;

9 “(ii) an income statement; and

10 “(iii) a cash flow analysis.

11 “(h) CONFIDENTIALITY.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graphs (2) and (3), the Treasury and any officer or
14 employee of the Treasury shall not disclose any in-
15 formation, including information provided by a whis-
16 tleblower to the Treasury, which could reasonably be
17 expected to reveal the identity of a whistleblower, ex-
18 cept in accordance with the provisions of section
19 552a of title 5, unless and until required to be dis-
20 closed to a defendant or respondent in connection
21 with a public proceeding instituted by the Treasury
22 or any entity described in paragraph (3).

23 “(2) EXEMPTED STATUTE.—For purposes of
24 section 552 of title 5, paragraph (1) shall be consid-

1 ered a statute described in subsection (b)(3)(B) of
2 such section 552.

3 “(3) RULE OF CONSTRUCTION.—Nothing in
4 this section is intended to limit, or shall be con-
5 strued to limit, the ability of the Attorney General
6 to present such evidence to a grand jury or to share
7 such evidence with potential witnesses or defendants
8 in the course of an ongoing criminal investigation.

9 “(4) AVAILABILITY TO GOVERNMENT AGEN-
10 CIES.—

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

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

22 “(ii) an appropriate regulatory au-
23 thority;

24 “(iii) a self-regulatory organization;

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

3 “(v) any appropriate State regulatory
4 authority;

5 “(vi) the Public Company Accounting
6 Oversight Board;

7 “(vii) a foreign securities authority;
8 and

9 “(viii) a foreign law enforcement au-
10 thority.

11 “(B) CONFIDENTIALITY.—

12 “(i) IN GENERAL.—Each of the enti-
13 ties described in clauses (i) through (vi) of
14 subparagraph (A) shall maintain such in-
15 formation as confidential in accordance
16 with the requirements established under
17 paragraph (1).

18 “(ii) FOREIGN AUTHORITIES.—Each
19 of the entities described in clauses (vii)
20 and (viii) of subparagraph (A) shall main-
21 tain such information in accordance with
22 such assurances of confidentiality as the
23 Treasury determines appropriate.

24 “(iii) RIGHTS RETAINED.—Nothing in
25 this section shall be deemed to diminish

1 the rights, privileges, or remedies of any
2 whistleblower under any Federal or State
3 law, or under any collective bargaining
4 agreement.

5 “(i) PROVISION OF FALSE INFORMATION.—A whis-
6 tleblower shall not be entitled to an award under this sec-
7 tion if the whistleblower—

8 “(1) knowingly and willfully makes any false,
9 fictitious, or fraudulent statement or representation;
10 or

11 “(2) uses any false writing or document know-
12 ing the writing or document contains any false, ficti-
13 tious, or fraudulent statement or entry.

14 “(j) RULEMAKING AUTHORITY.—The Treasury shall
15 have the authority to issue such rules and regulations as
16 may be necessary or appropriate to implement the provi-
17 sions of this section consistent with the purposes of this
18 section.”.

19 (2) TECHNICAL AND CONFORMING AMEND-
20 MENT.—The table of sections for chapter 53 of title
21 31, United States Code, is amended by striking the
22 item relating to section 5323 and inserting the fol-
23 lowing:

“5323. Whistleblower incentives and protections.”.

1 **SEC. 308. VALUE THAT SUBSTITUTES CURRENCY OR**
2 **FUNDS.**

3 (a) DEFINITIONS.—Section 5312(a)(2) of title 31,
4 United States Code, is amended—

5 (1) in subparagraph (J), by inserting “, or a
6 business engaged in the exchange of currency, funds,
7 or value that substitutes for currency or funds” be-
8 fore the semicolon at the end; and

9 (2) in subparagraph (R), by striking “funds,”
10 and inserting “currency, funds, or value that sub-
11 stitutes for currency or funds,”.

12 (b) REGISTRATION OF MONEY TRANSMITTING BUSI-
13 NESSES.—Section 5330(d) of title 31, United States Code,
14 is amended—

15 (1) in paragraph (1)(A), by striking “funds,”
16 and inserting “currency, funds, or value that sub-
17 stitutes for currency or funds,”; and

18 (2) in paragraph (2)—

19 (A) by striking “currency or funds denomi-
20 nated in the currency of any country” and in-
21 serting “currency, funds, or value that sub-
22 stitutes for currency or funds”; and

23 (B) by inserting “, including” after
24 “means”.

1 **SEC. 309. FIGHT ILLICIT NETWORKS AND DETECT TRAF-**
2 **FICKING.**

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

4 (1) According to the Drug Enforcement Admin-
5 istration 2017 National Drug Threat Assessment,
6 transnational criminal organizations are increasingly
7 using virtual currencies.

8 (2) The Department of the Treasury has recog-
9 nized that “[t]he development of virtual currencies is
10 an attempt to meet a legitimate market demand. Ac-
11 cording to a Federal Reserve Bank of Chicago econ-
12 omist, United States consumers want payment op-
13 tions that are versatile and that provide immediate
14 finality. No United States payment method meets
15 that description, although cash may come closest.
16 Virtual currencies can mimic cash’s immediate final-
17 ity and anonymity and are more versatile than cash
18 for online and cross-border transactions, making vir-
19 tual currencies vulnerable for illicit transactions.”.

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

25 (4) Online marketplaces, including the dark
26 web, have become a prominent platform to buy, sell,

1 and advertise for illicit goods and services associated
2 with human trafficking and drug trafficking.

3 (5) According to the International Labour Or-
4 ganization, in 2016, 4,800,000 people in the world
5 were victims of forced sexual exploitation, and in
6 2014, the global profit from commercial sexual ex-
7 ploitation was \$99,000,000,000.

8 (6) In 2016, within the United States, the Cen-
9 ters for Disease Control and Prevention estimated
10 that there were 64,000 deaths related to drug over-
11 dose, and the most severe increase in drug overdoses
12 were those associated with fentanyl and fentanyl
13 analogs (synthetic opioids), which amounted to over
14 20,000 overdose deaths.

15 (7) According to the Department of the Treas-
16 ury’s 2015 National Money Laundering Risk Assess-
17 ment, an estimated \$64,000,000,000 is generated
18 annually from United States drug trafficking sales.

19 (8) Illegal fentanyl in the United States origi-
20 nates primarily from China, and it is readily avail-
21 able to purchase through online marketplaces.

22 (b) DEFINITION.—In this section, the term “human
23 trafficking” has the meaning given the term “severe forms
24 of trafficking in persons” in section 103 of the Trafficking
25 Victims Protection Act of 2000 (22 U.S.C. 7102).

1 (c) GAO STUDY.—The Comptroller General of the
2 United States shall conduct a study on how virtual cur-
3 rencies and online marketplaces are used to facilitate
4 human and drug trafficking. The study shall consider—

5 (1) how online marketplaces, including the dark
6 web, are being used as platforms to buy, sell, or fa-
7 cilitate the financing of goods or services associated
8 with human trafficking or drug trafficking (specifi-
9 cally, opioids and synthetic opioids, including
10 fentanyl, fentanyl analogs, and any precursor chemi-
11 cals associated with manufacturing fentanyl or
12 fentanyl analogs) destined for, originating from, or
13 within the United States;

14 (2) how financial payment methods, including
15 virtual currencies and peer-to-peer mobile payment
16 services, are being utilized by online marketplaces to
17 facilitate the buying, selling, or financing of goods
18 and services associated with human or drug traf-
19 ficking destined for, originating from, or within the
20 United States;

21 (3) how virtual currencies are being used to fa-
22 cilitate the buying, selling, or financing of goods and
23 services associated with human or drug trafficking,
24 destined for, originating from, or within the United

1 States, when an online platform is not otherwise in-
2 volved;

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

7 (5) the participants (state and non-state actors)
8 throughout the entire supply chain that participate
9 in or benefit from the buying, selling, or financing
10 of goods and services associated with human or drug
11 trafficking (either through online marketplaces or
12 virtual currencies) destined for, originating from, or
13 within the United States;

14 (6) Federal and State agency efforts to impede
15 the buying, selling, or financing of goods and serv-
16 ices associated with human or drug trafficking des-
17 tined for, originating from, or within the United
18 States, including efforts to prevent the proceeds
19 from human or drug trafficking from entering the
20 United States banking system;

21 (7) how virtual currencies and their underlying
22 technologies can be used to detect and deter these
23 illicit activities; and

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

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

15 **SEC. 310. STUDY AND STRATEGY ON CHINESE MONEY**
16 **LAUNDERING.**

17 (a) STUDY.—The Secretary shall carry out a study
18 on—

19 (1) the extent and effect of illicit finance risk
20 relating to the Government of the People’s Republic
21 of China and Chinese firms; and

22 (2) the ways in which the increasing amount of
23 global trade and investment by the Government of
24 the People’s Republic of China and Chinese firms

1 expose the international financial system to in-
2 creased risk relating to illicit finance.

3 (b) STRATEGY TO COMBAT CHINESE MONEY LAUN-
4 DERING.—Upon the completion of the study required
5 under subsection (a), the Secretary shall, in consultation
6 with such other Federal departments and agencies as the
7 Secretary determines appropriate, develop a strategy to
8 combat Chinese money-laundering activities.

9 (c) REPORT.—Not later than 1 year after the date
10 of enactment of this Act, the Secretary shall submit to
11 Congress a report containing—

12 (1) all findings and determinations made in car-
13 rying out the study required under subsection (a);
14 and

15 (2) the strategy developed under subsection (b).

16 **SEC. 311. FINANCIAL TECHNOLOGY TASK FORCE.**

17 (a) IN GENERAL.—The Secretary shall convene a
18 task force, comprised of financial regulators, technology
19 experts, national security experts, law enforcement, and
20 any other group the Secretary determines is appropriate,
21 to analyze the impact of financial technology on financial
22 crimes compliance, including countering proliferation fi-
23 nance, human trafficking, and sanctions evasion.

24 (b) REPORT.—Not later than 2 years after the date
25 of enactment of this Act, the Secretary shall submit to

1 the Committee on Banking, Housing, and Urban Affairs
2 and the Committee on Foreign Relations of the Senate
3 and the Committee on Financial Services and the Com-
4 mittee on Foreign Affairs of the House of Representatives
5 a report containing any findings of the task force convened
6 under subsection (a).

7 **SEC. 312. STUDY ON THE EFFORTS OF AUTHORITARIAN RE-**
8 **GIMES TO EXPLOIT THE FINANCIAL SYSTEM**
9 **OF THE UNITED STATES.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Secretary and the Attor-
12 ney General, in consultation with the heads of other rel-
13 evant national security, intelligence, and law enforcement
14 agencies, shall conduct a study and submit to Congress
15 a report that considers how authoritarian regimes in for-
16 eign countries and their proxies use the financial system
17 of the United States to—

- 18 (1) conduct political influence operations;
- 19 (2) sustain kleptocratic methods of maintaining
20 power;
- 21 (3) export corruption;
- 22 (4) fund nongovernmental organizations, media
23 organizations, or academic initiatives in the United
24 States to advance the interests of those persons; and

1 (5) otherwise undermine democratic governance
2 in the United States and the partners and allies of
3 the United States.

4 (b) REPORT.—Not later than 2 years after the date
5 of enactment of this Act, the Secretary shall submit to
6 the Committee on Banking, Housing, and Urban Affairs
7 of the Senate and the Committee on Financial Services
8 of the House of Representatives a report that contains—

9 (1) the results of the study required under sub-
10 section (a); and

11 (2) any recommendations for legislative or regu-
12 latory action that would address exploitation of the
13 financial system of the United States by foreign au-
14 thoritarian regimes.

15 **SEC. 313. ADDITIONAL STUDIES.**

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

19 (1) evaluating the effect of anti-money-laun-
20 dering and counter-terrorism-financing requirements
21 on individuals and entities, including charities, em-
22 bassy accounts, money-service businesses, and cor-
23 respondent banks, that have been subject to categor-
24 ical de-risking by financial institutions operating in

1 the United States, or otherwise have difficulty ac-
2 cessing or maintaining—

3 (A) relationships in the United States fi-
4 nancial system; or

5 (B) certain financial services in the United
6 States, including opening and keeping open an
7 account;

8 (2) evaluating consequences of financial institu-
9 tions de-risking entire categories of relationships
10 with the persons identified in paragraph (1); and

11 (3) identifying options for financial institutions
12 handling transactions or accounts for high-risk cat-
13 egories of clients, and options for minimizing the
14 negative effects of anti-money-laundering and
15 counter-terrorism-financing requirements on the per-
16 sons described in paragraph (1) without compro-
17 mising the effectiveness of Federal anti-money-laun-
18 dering and counter-terrorism requirements.

19 **TITLE IV—BENEFICIAL OWNER-**
20 **SHIP DISCLOSURE REQUIRE-**
21 **MENTS**

22 **SEC. 401. BENEFICIAL OWNERSHIP.**

23 (a) IN GENERAL.—Chapter 53 of title 31, United
24 States Code, as amended by section 207 of this Act, is
25 amended by adding at the end the following:

1 **“§ 5334. Transparent incorporation practices**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ACCEPTABLE IDENTIFICATION DOCU-
4 MENT.—A natural person has an acceptable identi-
5 fication document if that person has a nonexpired
6 passport issued by the United States, a nonexpired
7 identification document issued by a State, local gov-
8 ernment, or Federally recognized Indian Tribe to an
9 individual acting for the purpose of identification of
10 that individual, or a nonexpired driver’s license
11 issued by a State, or, if the natural person does not
12 have any such document, a nonexpired passport
13 issued by a foreign government.

14 “(2) BENEFICIAL OWNER.—The term ‘bene-
15 ficial owner’—

16 “(A) means, with respect to an entity, a
17 natural person who directly or indirectly,
18 through any contract, arrangement, under-
19 standing, relationship, or otherwise—

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

22 “(ii) owns 25 percent or more of the
23 equity interests of such entity or receives
24 substantial economic benefits from the as-
25 sets of such entity; and

1 “(B) the term ‘beneficial owner’ does not
2 include—

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

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

8 “(iii) a person acting solely as an em-
9 ployee of a corporation or limited liability
10 company and whose control over or eco-
11 nomic benefits from the corporation or lim-
12 ited liability company derives solely from
13 the employment status of the person;

14 “(iv) a person whose only interest in
15 a corporation or limited liability company
16 is through a right of inheritance; or

17 “(v) a creditor of a corporation or
18 limited liability company, unless the cred-
19 itor meets the requirements of subpara-
20 graph (A).

21 “(3) DIRECTOR.—The term ‘Director’ means
22 the Director of FinCEN.

23 “(4) FINCEN.—The term ‘FinCEN’ means the
24 Financial Crimes Enforcement Network of the De-
25 partment of the Treasury.

1 “(5) FINCEN IDENTIFIER.—The term
2 ‘FinCEN identifier’ means the unique identifying
3 number assigned by FinCEN to a person under this
4 section.

5 “(6) REPORTING COMPANY.—The term ‘report-
6 ing company’—

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

9 “(i) created by the filing of a docu-
10 ment with a secretary of state or a similar
11 office under the law of a State or Indian
12 tribe; or

13 “(ii) formed under the law of a for-
14 eign country and registered to do business
15 in a State by the filing of a document with
16 a secretary of state or a similar office
17 under the law of the State; and

18 “(B) does not include—

19 “(i) an issuer—

20 “(I) of a class of securities reg-
21 istered under section 12 of the Securi-
22 ties Exchange Act of 1934 (15 U.S.C.
23 781); or

1 “(II) that is required to file re-
2 ports under section 15(d) of that Act
3 (15 U.S.C. 78o(d));

4 “(ii) a business concern constituted or
5 sponsored by a State, a political subdivi-
6 sion of a State, under an interstate com-
7 pact between two or more States, by a de-
8 partment or agency of the United States,
9 or under the laws of the United States;

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

13 “(iv) a credit union (as defined in sec-
14 tion 101 of the Federal Credit Union Act
15 (12 U.S.C. 1752));

16 “(v) a bank holding company (as de-
17 fined in section 2 of the Bank Holding
18 Company Act of 1956 (12 U.S.C. 1841));

19 “(vi) a broker or dealer (as defined in
20 section 3 of the Securities Exchange Act of
21 1934 (15 U.S.C. 78c) that is registered
22 under section 15 of the Securities Ex-
23 change Act of 1934 (15 U.S.C. 78o);

24 “(vii) an exchange or clearing agency
25 (as defined in section 3 of the Securities

1 Exchange Act of 1934 (15 U.S.C. 78c))
2 that is registered under section 6 or 17A
3 of the Securities Exchange Act of 1934
4 (15 U.S.C. 78f and 78q-1);

5 “(viii) an investment company (as de-
6 fined in section 3 of the Investment Com-
7 pany Act of 1940 (15 U.S.C. 80a-3)) or
8 an investment adviser (as defined in sec-
9 tion 202(11) of the Investment Advisers
10 Act of 1940 (15 U.S.C. 80b-2(11))), in-
11 cluding an investment adviser described in
12 section 203(l) of the Investment Advisers
13 Act of 1940 (15 U.S.C. 80b-3(l)), if the
14 company or adviser is registered with the
15 Securities and Exchange Commission, or
16 has filed an application for registration
17 which has not been denied, under the In-
18 vestment Company Act of 1940 (15 U.S.C.
19 80a-1 et seq.) or the Investment Advisers
20 Act of 1940 (15 U.S.C. 80b-1 et seq.);

21 “(ix) an insurance company (as de-
22 fined in section 2 of the Investment Com-
23 pany Act of 1940 (15 U.S.C. 80a-2));

1 “(x) an insurance producer (as de-
2 fined in section 334 of the Gramm-Leach-
3 Bliley Act (15 U.S.C. 6764));

4 “(xi) a registered entity (as defined in
5 section 1a of the Commodity Exchange Act
6 (7 U.S.C. 1a)), or a futures commission
7 merchant, introducing broker, commodity
8 pool operator, or commodity trading advi-
9 sor (as defined in section 1a of the Com-
10 modity Exchange Act (7 U.S.C. 1a)) that
11 is registered with the Commodity Futures
12 Trading Commission;

13 “(xii) a public accounting firm reg-
14 istered in accordance with section 102 of
15 the Sarbanes-Oxley Act (15 U.S.C. 7212);

16 “(xiii) a public utility that provides
17 telecommunications services, electrical
18 power, natural gas, or water and sewer
19 services, within the United States;

20 “(xiv) a church, charity, nonprofit en-
21 tity, or other organization that is described
22 in section 501(c), 527, 4947(a)(1), or
23 4947(a)(2) of the Internal Revenue Code
24 of 1986, that has not been denied tax-ex-
25 empt status, and that has not failed to file

1 the most recently due annual information
2 return with the Internal Revenue Service
3 pursuant to section 6033(a) of the Internal
4 Revenue Code of 1986, if required to file
5 such a return, for 3 consecutive years, pro-
6 vided however, that an entity described in
7 this clause shall not be considered a cor-
8 poration or limited liability company until
9 the period of time 180 days immediately
10 following the date of its denial of tax-ex-
11 empt status or failure to file its annual in-
12 formation return pursuant to section
13 6033(a) of the Internal Revenue Code of
14 1986 for 3 consecutive years;

15 “(xv) any business concern that—

16 “(I) employs more than 20 em-
17 ployees on a full-time basis in the
18 United States;

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

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

1 “(xvi) any corporation or limited li-
2 ability company formed and owned by an
3 entity described in clause (i), (ii), (iii), (iv),
4 (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),
5 (xiii), or (xiv);

6 “(xvii) any pooled investment vehicle
7 that is operated or advised by an entity de-
8 scribed in clause (iii), (iv), (v), (vi), (vii),
9 (viii), (ix), or (x); or

10 “(xviii) any business concern or class
11 of business concerns that the Secretary of
12 the Treasury, with the written concurrence
13 of the Attorney General and the Secretary
14 of Homeland Security, has determined
15 should be exempt from the requirements of
16 subsection (a) because requiring beneficial
17 ownership information from the business
18 concern or class of business concerns
19 would not serve the public interest and
20 would not assist law enforcement efforts to
21 detect, prevent, or punish terrorism, money
22 laundering, tax evasion, or other mis-
23 conduct.

24 “(7) STATE.—The term ‘State’ means any
25 State, commonwealth, territory, or possession of the

1 United States, the District of Columbia, the Com-
2 monwealth of Puerto Rico, the Commonwealth of the
3 Northern Mariana Islands, American Samoa, Guam,
4 or the United States Virgin Islands.

5 “(8) SUBSTANTIAL ECONOMIC BENEFITS.—

6 “(A) IN GENERAL.—For the purposes of
7 this section, a person receives ‘substantial eco-
8 nomic benefits’ from an entity if the person has
9 access to 25 percent or more of the funds and
10 assets of the entity.

11 “(B) RULEMAKING.—The Secretary of the
12 Treasury shall seek to provide clarity to entities
13 with respect to the identification and disclosure
14 of an individual who receives substantial eco-
15 nomic benefits from the funds and assets of an
16 entity.

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

24 “(b) BENEFICIAL OWNERSHIP REPORTING.—

25 “(1) REPORTING.—

1 “(A) IN GENERAL.—In accordance with
2 regulations prescribed by the Secretary of the
3 Treasury, each reporting company shall submit
4 to FinCEN a report that contains the informa-
5 tion described in paragraph (2).

6 “(B) REPORTING OF EXISTING ENTI-
7 TIES.—In accordance with regulations pre-
8 scribed by the Secretary of the Treasury, any
9 reporting company that has been formed under
10 the laws of a State or Indian Tribe prior to the
11 date of enactment of this section, shall, in a
12 timely manner, and not later than 2 years after
13 the date of enactment of this section, submit to
14 FinCEN a report that contains the information
15 described in paragraph (2).

16 “(C) REPORTING AT TIME OF INCORPORA-
17 TION.—In accordance with regulations pre-
18 scribed by the Secretary of the Treasury, any
19 reporting company that has been formed under
20 the laws of a State or Indian Tribe after the
21 date of enactment of this section, shall, at the
22 time of incorporation, submit to FinCEN a re-
23 port that contains the information described in
24 paragraph (2).

1 “(D) UPDATED REPORTING FOR CHANGES
2 IN BENEFICIAL OWNERS.—In accordance with
3 regulations prescribed by the Secretary of the
4 Treasury, a reporting company shall, in a time-
5 ly manner, and not later than 90 days after the
6 date on which there is a change with respect to
7 any beneficial owner of the reporting company,
8 deliver to FinCEN a report that includes the
9 information described in paragraph (2).

10 “(E) UPDATED REPORTING FOR CHANGES
11 IN BENEFICIAL OWNERSHIP INFORMATION.—In
12 accordance with regulations prescribed by the
13 Secretary of the Treasury, a reporting company
14 shall, in a timely manner, and not later than 1
15 year after the date on which there are any
16 changes to the information described in para-
17 graph (2), deliver to FinCEN a report that in-
18 cludes the information described in that para-
19 graph.

20 “(F) OTHER REQUIREMENTS.—In promul-
21 gating the regulations prescribed in subpara-
22 graphs (A) through (E), the Secretary of the
23 Treasury shall endeavor, to the extent prac-
24 ticable—

1 “(i) to collect information through ex-
2 isting Federal, State, and local processes
3 and procedures;

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

9 “(iii) to collect such information, in-
10 cluding any updates in beneficial owner-
11 ship, to ensure the usefulness of beneficial
12 ownership information for law enforcement
13 and national security purposes;

14 “(iv) to establish partnerships with
15 State, local, and Tribal governmental agen-
16 cies; and

17 “(v) to permit any entity that is not
18 a reporting company to demand and re-
19 ceive from FinCEN written confirmation
20 that the entity is not subject to the re-
21 quirements of this subsection.

22 “(2) REQUIRED INFORMATION.—

23 “(A) DEFINITION.—In this paragraph, the
24 term ‘applicant’ means, with respect to a re-
25 porting company, any individual who files an

1 application to form a corporation or limited li-
2 ability company under the laws of a State or
3 Indian Tribe on behalf of the reporting com-
4 pany.

5 “(B) INFORMATION.—In accordance with
6 regulations prescribed by the Secretary of the
7 Treasury, a report delivered under paragraph
8 (1) shall identify each beneficial owner of the
9 applicable reporting company and each appli-
10 cant with respect to that reporting company
11 by—

12 “(i) full legal name;

13 “(ii) date of birth;

14 “(iii) current, as of the date on which
15 the report is delivered, residential or busi-
16 ness street address; and

17 “(iv) the unique identifying number
18 with respect to the beneficial owner from a
19 nonexpired passport issued by the United
20 States, a nonexpired personal identification
21 card, or a nonexpired driver’s license
22 issued by a State.

23 “(3) FINCEN ID NUMBERS.—

24 “(A) ISSUANCE OF FINCEN ID NUMBER.—

1 “(i) IN GENERAL.—FinCEN shall
2 issue a FinCEN ID number to any indi-
3 vidual who requests such a number and
4 provides FinCEN with the information de-
5 scribed in paragraph (2).

6 “(ii) UPDATING OF INFORMATION.—
7 An individual with a FinCEN ID number
8 shall submit filings with FinCEN pursuant
9 to paragraph (1) updating any information
10 described in paragraph (2).

11 “(B) USE OF FINCEN ID NUMBER IN RE-
12 PORTING REQUIREMENTS.—Any person re-
13 quired to report the information described in
14 paragraph (2) with respect to an individual may
15 instead report the FinCEN ID number of the
16 individual.

17 “(C) TREATMENT OF INFORMATION SUB-
18 MITTED FOR FINCEN ID NUMBER.—For pur-
19 poses of this section, any information submitted
20 under subparagraph (A) shall be deemed to be
21 beneficial ownership information.

22 “(4) EFFECTIVE DATE.—The requirements of
23 this subsection shall take effect on the effective date
24 of the regulations prescribed by the Secretary of the
25 Treasury under this subsection, which effective date

1 shall not be sooner than the date that is 1 year after
2 the date of enactment of this section.

3 “(c) RETENTION AND DISCLOSURE OF BENEFICIAL
4 OWNERSHIP INFORMATION BY FINCEN.—

5 “(1) RETENTION OF INFORMATION.—Beneficial
6 ownership information required under subsection
7 (b)(2) relating to each corporation or limited liability
8 company formed under the laws of the State shall be
9 maintained by FinCEN until the end of the 5-year
10 period beginning on the date that the corporation or
11 limited liability company terminates.

12 “(2) DISCLOSURE.—Beneficial ownership infor-
13 mation reported to FinCEN pursuant to this section
14 shall be provided by FinCEN only upon receipt of—

15 “(A) a request, through appropriate proto-
16 cols, by a local, Tribal, State, or Federal law
17 enforcement, national security, or intelligence
18 agency;

19 “(B) a request made by a Federal agency
20 on behalf of a law enforcement agency of an-
21 other country under an international treaty,
22 agreement, or convention, or an order under
23 section 3512 of title 18 or section 1782 of title
24 28, issued in response to a request for assist-
25 ance in an investigation by such foreign coun-

1 try, subject to the requirement that such other
2 country agrees to prevent the public disclosure
3 of such beneficial ownership information or to
4 use it for any purpose other than the specified
5 investigation, or, if upon agreement by the Fed-
6 eral agency and the foreign country, in a crimi-
7 nal or civil case; or

8 “(C) a request made by a financial institu-
9 tion or any other entity or person subject to
10 customer due diligence requirements, with the
11 consent of the reporting company, to facilitate
12 the compliance of the financial institution or
13 other entity or person with customer due dili-
14 gence requirements under applicable Federal
15 law or State law.

16 “(3) APPROPRIATE PROTOCOLS.—The protocols
17 described in paragraph (2)(A) shall—

18 “(A) protect the privacy of any beneficial
19 ownership information provided by FinCEN to
20 a local, Tribal, State, or Federal law enforce-
21 ment, national security, or intelligence agency;

22 “(B) ensure that a local, Tribal, State, or
23 Federal law enforcement, national security, or
24 intelligence agency requesting beneficial owner-
25 ship information has an existing investigatory

1 basis for requesting such information and that
2 basis is not in violation of a local, or city ordi-
3 nance;

4 “(C) ensure that access to beneficial own-
5 ership information is limited to authorized users
6 at a local, Tribal, State, or Federal law enforce-
7 ment, national security, or intelligence agency
8 who have undergone appropriate training, and
9 that the identity of such authorized users is
10 verified through appropriate mechanisms such
11 as 2-factor authentication;

12 “(D) include an audit trail of requests for
13 beneficial ownership information by a local,
14 Tribal, State, or Federal law enforcement, na-
15 tional security, or intelligence agency, including,
16 as necessary, information concerning queries
17 made by authorized users at a local, Tribal,
18 State, or Federal law enforcement, national se-
19 curity, or intelligence agency;

20 “(E) require that every local, Tribal, State,
21 or Federal law enforcement, national security,
22 or intelligence agency that receives beneficial
23 ownership information from FinCEN conducts
24 an annual audit to verify that the beneficial
25 ownership information received from FinCEN

1 has been accessed and used appropriately, and
2 consistent with this paragraph; and

3 “(F) require FinCEN to conduct an an-
4 nual audit of every local, Tribal, State, or Fed-
5 eral law enforcement, national security, or intel-
6 ligence agency that has received beneficial own-
7 ership information to ensure that such agency
8 has requested beneficial ownership information
9 and has used any beneficial ownership informa-
10 tion received from FinCEN appropriately and
11 consistent with this paragraph.

12 “(4) VIOLATION.—A request under paragraph
13 (2)(A) that violates the protocols described in para-
14 graph (3) shall subject the requesting agency to
15 criminal penalties under subsection (g)(3).

16 “(5) SCOPE.—Information provided to a local,
17 Tribal, State, or Federal law enforcement, national
18 security, or intelligence agency under this paragraph
19 may only be used for law enforcement, anti-money
20 laundering, counter-terrorism-financing, national se-
21 curity, or intelligence purposes.

22 “(d) AGENCY COORDINATION.—

23 “(1) IN GENERAL.—The Secretary of the
24 Treasury shall endeavor, to the extent practicable,
25 update information described in subsection (b)(2) by

1 working collaboratively with other relevant Federal
2 agencies.

3 “(2) INFORMATION FROM RELEVANT FEDERAL
4 AGENCIES.—Relevant Federal agencies, as deter-
5 mined by the Secretary of the Treasury, shall, to the
6 extent practicable, and consistent with privacy pro-
7 tections, provide such required information to
8 FinCEN for purposes of maintaining an accurate
9 beneficial ownership database.

10 “(3) REGULATIONS.—The Secretary of the
11 Treasury, in consultation with the heads of other
12 relevant agencies, may promulgate regulations as
13 necessary to carry out this subsection.

14 “(e) STATE NOTIFICATION OF FEDERAL OBLIGA-
15 TIONS.—

16 “(1) IN GENERAL.—Each State that receives
17 funding under section 5334(c) shall, not later than
18 2 years after the date of enactment of this section,
19 take the following actions:

20 “(A) The Secretary of State or a similar
21 office in each State responsible for the estab-
22 lishment of entities created by the filing of a
23 public document with such office under the law
24 of such State shall periodically, including at the
25 time of any renewal of any license to do busi-

1 ness in such State and in connection with State
2 corporate tax renewals, notify filers of their re-
3 quirements as reporting companies under this
4 section, including the requirement under sub-
5 paragraph (b)(1)(B), and provide them with a
6 copy of the reporting company form created by
7 the Secretary under this section or an internet
8 link to such form.

9 “(B) The Secretary of State or a similar
10 office in each State responsible for the estab-
11 lishment of entities created by the filing of a
12 public document with such office under the law
13 of such State shall update its websites, forms
14 relating to incorporation and physical premises
15 to notify filers of their requirements as report-
16 ing companies under this section, including pro-
17 viding an internet link to the reporting com-
18 pany form created by the Secretary under this
19 section.

20 “(2) DISCLOSURE.—A notification under sub-
21 paragraph (A) or (B) of paragraph (1) shall explic-
22 itly state that the notification is on behalf of the De-
23 partment of the Treasury for the purpose of sup-
24 porting a nonpublic registry of business entities in
25 the United States.

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

7 “(g) PENALTIES.—

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

10 “(A) knowingly providing, or attempting to
11 provide, false or fraudulent beneficial ownership
12 information, including a false or fraudulent
13 identifying photograph, to FinCEN in accord-
14 ance with subsection (b);

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

18 “(C) knowingly disclosing the contents of
19 any report filed with FinCEN pursuant to sub-
20 section (b), except to the extent necessary to
21 fulfill an authorized request for beneficial own-
22 ership information; or

23 “(D) knowingly using, for an unauthorized
24 purpose, the contents of any report filed with
25 FinCEN pursuant to subsection (b).

1 “(2) CIVIL AND CRIMINAL PENALTIES.—

2 “(A) IN GENERAL.—Any person who vio-
3 lates subparagraph (A) or (B) of paragraph (1)
4 shall be liable to the United States for a civil
5 penalty of not more than \$500 for each day
6 that the violation continues or has not been
7 remedied, and the person may be fined not
8 more than \$10,000, imprisoned for not more
9 than four years, or both.

10 “(B) OTHER VIOLATIONS.—Any person
11 who violates subparagraph (C) or (D) of para-
12 graph (1) shall be liable to the United States
13 for a civil penalty of not more than \$500 for
14 each violation, and the criminal penalties pro-
15 vided for in section 5322 will apply to the same
16 extent as such criminal penalties would apply to
17 a violation described in section 5322.

18 “(C) LIMITATIONS.—Any person who neg-
19 ligently violates paragraph (1) shall not be sub-
20 ject to civil or criminal penalties under this
21 paragraph.

22 “(D) WAIVER OF DE MINIMIS VIOLA-
23 TIONS.—

24 “(i) DEFINITIONS.—

1 “(I) IN GENERAL.—For purposes
2 of this subsection, a de minimis viola-
3 tion includes any change to the infor-
4 mation described in paragraph (2)(B)
5 of subsection (b) that is due to—

6 “(aa) a change in an ad-
7 dress provided under clause (iii)
8 of such paragraph (2)(B); or

9 “(bb) the expiration of an
10 identification document provided
11 under clause (iv) of such para-
12 graph (2)(B).

13 “(II) ASSISTANCE.—FinCEN
14 shall provide assistance to, and may
15 not impose any penalty upon, any per-
16 son seeking to remedy a de minimis
17 violation of paragraph (1) and come
18 into compliance with this section.

19 “(ii) WAIVER.—The Secretary of the
20 Treasury shall waive the penalty for vio-
21 lating paragraph (1) if the Secretary deter-
22 mines that the violation was de minimis
23 and the reporting company took reasonable
24 steps to update the information.

1 “(iii) REPEATED VIOLATIONS.—In de-
2 termining whether a violation is de mini-
3 mis, the Secretary of the Treasury may
4 treat repeated violations as 1 violation.

5 “(3) TREASURY OFFICE OF INSPECTOR GEN-
6 ERAL INVESTIGATION IN THE EVENT OF A CYBERSE-
7 CURITY BREACH.—

8 “(A) IN GENERAL.—In the event of a cy-
9 bersecurity breach that results in substantial
10 unauthorized access and disclosure of sensitive
11 beneficial ownership information, the Inspector
12 General of the Department of the Treasury
13 shall conduct an investigation into FinCEN cy-
14 bersecurity practices that, to the extent pos-
15 sible, determines any vulnerabilities within
16 FinCEN privacy security protocols and provides
17 recommendations for fixing such deficiencies.

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

22 “(C) ACTIONS OF THE SECRETARY.—Upon
23 receiving a report submitted under subpara-
24 graph (B), the Secretary of the Treasury
25 shall—

1 “(i) determine whether the Director
2 had any responsibility for the cybersecurity
3 breach or whether policies, practices, or
4 procedures implemented at the direction of
5 the Director led to the cybersecurity
6 breach; and

7 “(ii) submit to Congress a written re-
8 port outlining the findings of the Sec-
9 retary, including a determination by the
10 Secretary on whether to retain or dismiss
11 the individual serving as the Director.

12 “(4) USER COMPLAINT PROCESS.—

13 “(A) IN GENERAL.—The Inspector General
14 of the Department of the Treasury, in coordina-
15 tion with the Secretary of the Treasury, shall
16 provide contact information to receive external
17 comments or complaints regarding the bene-
18 ficial ownership information collection process.

19 “(B) REPORT.—The Inspector General
20 shall submit to Congress a periodic report sum-
21 marizing external complaints and related inves-
22 tigations by the Inspector General related to
23 the collection of beneficial ownership informa-
24 tion.”.

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

3 (1) in section 5321(a)—

4 (A) in paragraph (1), by striking “sections
5 5314 and 5315” each place it appears and in-
6 serting “sections 5314, 5315, and 5334”; and

7 (B) in paragraph (6), by inserting “(except
8 section 5334)” after “subchapter” each place it
9 appears; and

10 (2) in section 5322, by striking “section 5315
11 or 5324” each place it appears and inserting “sec-
12 tion 5315, 5324, or 5334”.

13 (3) in the table of contents of chapter 53 of
14 title 31, United States Code, as amended by section
15 106 of this Act, by adding at the end the following:

“5334. Transparent incorporation practices.”.

16 (c) FUNDING AUTHORIZATION.—

17 (1) IN GENERAL.—To carry out section 5334 of
18 title 31, United States Code, as added by subsection
19 (a) of this section, during the 3-year period begin-
20 ning on the date of enactment of this Act, funds
21 shall be made available to FinCEN and the States
22 to pay reasonable costs relating to compliance with
23 the requirements of such section.

24 (2) FUNDING SOURCES.—Funds shall be pro-
25 vided to FinCEN and the States to carry out the

1 purposes described in paragraph (1) from one or
2 more of the following sources:

3 (A) Upon application by FinCEN or a
4 State, and without further appropriation, the
5 Secretary shall make available to FinCEN or
6 such State unobligated balances described in
7 section 9703(g)(4)(B) of title 31, United States
8 Code, in the Department of the Treasury For-
9 feiture Fund established under section 9703(a)
10 of title 31, United States Code.

11 (B) Upon application by FinCEN or a
12 State, after consultation with the Secretary,
13 and without further appropriation, the Attorney
14 General of the United States shall make avail-
15 able to FinCEN or such State excess unobli-
16 gated balances (as defined in section
17 524(c)(8)(D) of title 28, United States Code) in
18 the Department of Justice Assets Forfeiture
19 Fund established under section 524(c) of title
20 28, United States Code.

21 (3) MAXIMUM AMOUNTS.—

22 (A) DEPARTMENT OF THE TREASURY.—
23 The Secretary may not make available to
24 FinCEN a total of more than \$30,000,000 and

1 to the States a total of not more than
2 \$5,000,000 under paragraph (2)(A).

3 (B) DEPARTMENT OF JUSTICE.—The At-
4 torney General of the United States may not
5 make available to FinCEN a total of more than
6 \$10,000,000 and to the States a total of not
7 more than \$5,000,000 under paragraph (2)(B).

8 (d) FEDERAL CONTRACTORS.—Not later than the
9 first day of the first full fiscal year beginning at least 1
10 year after the date of the enactment of this Act, the Ad-
11 ministrator for Federal Procurement Policy shall revise
12 the Federal Acquisition Regulation maintained under sec-
13 tion 1303(a)(1) of title 41, United States Code, to require
14 any contractor who is subject to the requirement to dis-
15 close beneficial ownership information under section 5334
16 of title 31, United States Code, as added by subsection
17 (a) of this section, to provide the information required to
18 be disclosed under such section to the Federal Government
19 as part of any bid or proposal for a contract with a value
20 threshold in excess of the simplified acquisition threshold
21 under section 134 of title 41, United States Code.

22 (e) REVISED DUE DILIGENCE RULEMAKING.—Not
23 later than 1 year after the date of the enactment of this
24 Act, the Secretary shall revise the final rule titled “Cus-

1 tomer Due Diligence Requirements for Financial Institu-
2 tions” (May 11, 2016; 81 Fed. Reg. 29397) to—

3 (1) bring the rule into conformance with this
4 Act and the amendments made by this Act;

5 (2) account for financial institutions’ access to
6 comprehensive beneficial ownership information filed
7 by corporations and limited liability companies,
8 under threat of civil and criminal penalties, under
9 this Act, and the amendments made by this Act; and

10 (3) reduce any burdens on financial institutions
11 that are, in light of the enactment of this Act and
12 the amendments made by this Act, unnecessary or
13 duplicative.

14 **SEC. 402. GEOGRAPHIC TARGETING ORDER.**

15 The Secretary shall issue a geographic targeting
16 order, similar to the order issued by the FinCEN on No-
17 vember 15, 2018, that—

18 (1) applies to commercial real estate to the
19 same extent, with the exception of not having the
20 same thresholds, as the order issued by FinCEN on
21 November 15, 2018, applies to residential real es-
22 tate; and

23 (2) establishes a specific threshold for commer-
24 cial real estate.

1 **SEC. 403. BENEFICIAL OWNERSHIP STUDIES.**

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

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

10 (2) identifying each State that requires persons
11 seeking to form or register partnerships, trusts, or
12 other legal entities under the laws of the State to
13 provide beneficial owners (as that term is defined in
14 section 5334(a) of title 31, United States Code, as
15 added by section 401 of this Act) or beneficiaries of
16 such entities, and the nature of the required infor-
17 mation;

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

21 (A) raises concerns about the involvement
22 of such entities in terrorism, money laundering,
23 tax evasion, securities fraud, or other mis-
24 conduct; and

25 (B) has impeded investigations into enti-
26 ties suspected of such misconduct; and

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

7 (b) EFFECTIVENESS OF INCORPORATION PRACTICES
8 STUDY.—Not later than 5 years after the date of enact-
9 ment of this Act, the Comptroller General of the United
10 States shall conduct a study and submit to the Congress
11 a report assessing the effectiveness of incorporation prac-
12 tices implemented under this Act, and the amendments
13 made by this Act, in—

14 (1) providing law enforcement agencies with
15 prompt access to reliable, useful, and complete bene-
16 ficial ownership information; and

17 (2) strengthening the capability of law enforce-
18 ment agencies to—

19 (A) combat incorporation abuses and civil
20 and criminal misconduct; and

21 (B) detect, prevent, or punish terrorism,
22 money laundering, tax evasion, or other mis-
23 conduct.

1 (c) USING TECHNOLOGY TO AVOID DUPLICATIVE
2 LAYERS OF REPORTING OBLIGATIONS AND INCREASE AC-
3 CURACY OF BENEFICIAL OWNERSHIP INFORMATION.—

4 (1) IN GENERAL.—The Secretary, in consulta-
5 tion with the Attorney General of the United States
6 shall conduct a study to evaluate—

7 (A) the feasibility of adopting FinCEN
8 identifying numbers or other simplified report-
9 ing methods in order to facilitate a simplified
10 beneficial ownership regime for reporting com-
11 panies;

12 (B) whether a reporting regime whereby
13 only company shareholders are reported within
14 the ownership chain of a reporting company
15 could effectively track beneficial ownership in-
16 formation and increase information to law en-
17 forcement;

18 (C) the costs associated with imposing any
19 new verification requirements on FinCEN; and

20 (D) the resources necessary to implement
21 any such changes.

22 (2) FINDINGS.—The Secretary shall present
23 findings to the relevant committees of jurisdiction
24 and provide recommendations for carrying out these
25 findings.

1 **TITLE V—STRENGTHENING THE**
2 **ABILITY OF THE SECURITIES**
3 **AND EXCHANGE COMMISSION**
4 **TO PURSUE VIOLATIONS OF**
5 **THE SECURITIES LAWS**

6 **SEC. 501. SHORT TITLE.**

7 This title may be cited as the “Securities Fraud En-
8 forcement and Investor Compensation Act of 2019”.

9 **SEC. 502. INVESTIGATIONS AND PROSECUTIONS OF VIOLA-**
10 **TIONS OF THE SECURITIES LAWS.**

11 (a) **IN GENERAL.**—Section 21(d) of the Securities
12 Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

13 (1) in paragraph (3)—

14 (A) in the paragraph heading—

15 (i) by inserting “CIVIL” before
16 “MONEY PENALTIES”; and

17 (ii) by striking “IN CIVIL ACTIONS”
18 and inserting “AND AUTHORITY TO SEEK
19 DISGORGEMENT”;

20 (B) in subparagraph (A), by striking “ju-
21 risdiction to impose” and all that follows
22 through the period at the end and inserting the
23 following: “jurisdiction to—

1 “(i) impose, upon a proper showing, a civil
2 penalty to be paid by the person who committed
3 such violation; and

4 “(ii) require disgorgement under para-
5 graph (7) by the person who received any un-
6 just enrichment as a result of such violation.”;
7 and

8 (C) in subparagraph (B)—

9 (i) in clause (i), in the first sentence,
10 by striking “the penalty” and inserting “a
11 civil penalty imposed under subparagraph
12 (A)(i)”;

13 (ii) in clause (ii), by striking “amount
14 of penalty” and inserting “amount of a
15 civil penalty imposed under subparagraph
16 (A)(i)”;

17 (iii) in clause (iii), in the matter pre-
18 ceding item (aa), by striking “amount of
19 penalty for each such violation” and insert-
20 ing “amount of a civil penalty imposed
21 under subparagraph (A)(i) for each viola-
22 tion described in that subparagraph”;

23 (2) in paragraph (4), by inserting “under para-
24 graph (7)” after “funds disgorged”; and

25 (3) by adding at the end the following:

1 “(7) DISGORGEMENT.—

2 “(A) IN GENERAL.—In any action or pro-
3 ceeding brought by the Commission under any provi-
4 sion of the securities laws, the Commission may
5 seek, and any Federal court may order,
6 disgorgement of any unjust enrichment that a per-
7 son obtained as a result of a violation of that provi-
8 sion.

9 “(B) CALCULATION.—Any disgorgement that is
10 ordered with respect to a person under subpara-
11 graph (A) shall be offset by any amount of restitue-
12 tion that the person is ordered to pay under para-
13 graph (8).

14 “(8) RESTITUTION.—In any proceeding brought or
15 instituted by the Commission under any provision of the
16 securities laws, the Commission may seek, and any Fed-
17 eral court, or, with respect to a proceeding instituted by
18 the Commission, the Commission, may order restitution
19 to an investor in the amount of the loss that the investor
20 sustained as a result of a violation of that provision by
21 a person that is—

22 “(A) registered as, or required to be registered
23 as, a broker, dealer, investment adviser, municipal
24 securities dealer, municipal advisor, or transfer
25 agent; or

1 “(B) associated with, or, as of the date on
2 which the violation occurs, seeking to become associ-
3 ated with, an entity described in subparagraph (A).

4 “(9) LIMITATIONS PERIODS.—

5 “(A) DISGORGEMENT.—The Commission may
6 bring a claim for disgorgement under paragraph (7)
7 not later than 5 years after the date on which the
8 person against which the claim is brought receives
9 any unjust enrichment as a result of the violation
10 that gives rise to the action or proceeding in which
11 the Commission seeks the claim.

12 “(B) EQUITABLE REMEDIES.—The Commission
13 may seek a claim for any equitable remedy, includ-
14 ing for restitution under paragraph (8), an injunc-
15 tion, or a bar, suspension, or cease and desist order,
16 not later than 12 years after the latest date on
17 which a violation that gives rise to the claim occurs.

18 “(C) CALCULATION.—For the purposes of cal-
19 culating any limitations period under this paragraph
20 with respect to an action or claim, any time in which
21 the person against which the action or claim, as ap-
22 plicable, is brought is outside of the United States
23 shall not count towards the accrual of that period.

24 “(10) RULE OF CONSTRUCTION.—Nothing in para-
25 graph (7) or (8) may be construed as altering any right

1 that any private party may have to maintain a suit for
2 a violation of this Act.”.

3 (b) APPLICABILITY.—The amendments made by sub-
4 section (a) shall apply with respect to any action or pro-
5 ceeding that is commenced on or after the date of enact-
6 ment of this Act.