

119TH CONGRESS
2D SESSION

S. _____

To amend title 31, United States Code, to require certain financial institutions to verify the citizenship and legal status of individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 31, United States Code, to require certain financial institutions to verify the citizenship and legal status of individuals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Know Your American
5 Customer Act”.

6 **SEC. 2. VERIFICATION OF CITIZENSHIP AND LEGAL STA-**
7 **TUS.**

8 Section 5318 of title 31, United States Code, is
9 amended by adding at the end the following:

1 “(r) VERIFICATION OF CITIZENSHIP AND LEGAL
2 STATUS.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) COVERED INDIVIDUAL.—The term
5 ‘covered individual’ means any natural person
6 who—

7 “(i) seeks to open an account at a
8 covered institution;

9 “(ii)(I) who holds an account at a cov-
10 ered institution that was opened on or
11 after the date that is 90 days after the
12 date of enactment of this subsection; and

13 “(II) whose eligibility for such ac-
14 count was established through documenta-
15 tion of authorization to temporarily reside
16 in the United States in compliance with
17 paragraph (2)(C); or

18 “(iii) is identified as the individual ex-
19 ercising substantial control over a legal en-
20 tity, as described in section 5336, that
21 seeks to open an account at a covered in-
22 stitution.

23 “(B) COVERED INSTITUTION.—The term
24 ‘covered institution’ means—

1 “(i) an insured depository institution;

2 and

3 “(ii) an insured credit union.

4 “(C) DISTRIBUTIONS OR TRANSFERS.—

5 The term ‘distributions or transfers’ means any

6 payment, refund, deposit, or other funds that

7 would otherwise be directed to an account that

8 has been frozen or closed under this subsection.

9 “(D) INSURED CREDIT UNION.—The term

10 ‘insured credit union’ has the meaning given

11 the term in section 101 of the Federal Credit

12 Union Act (12 U.S.C. 1752).

13 “(E) INSURED DEPOSITORY INSTITU-

14 TION.—The term ‘insured depository institu-

15 tion’ has the meaning given the term in section

16 3 of the Federal Deposit Insurance Act (12

17 U.S.C. 1813).

18 “(F) LAWFUL PRESENCE; LAWFULLY

19 PRESENT IN THE UNITED STATES.—The terms

20 ‘lawful presence’ and ‘lawfully present in the

21 United States’, with respect to an individual,

22 mean that the individual is—

23 “(i) a citizen or national of the United

24 States; or

25 “(ii) an alien—

1 “(I) who has been inspected and
2 admitted or paroled into the United
3 States under the Immigration and
4 Nationality Act (8 U.S.C. 1101 et
5 seq.); and

6 “(II) whose period of authorized
7 stay has not expired.

8 “(G) PERIOD OF AUTHORIZED STAY.—The
9 term ‘period of authorized stay’ means the pe-
10 riod during which an alien is authorized by the
11 Secretary of Homeland Security to be present
12 in the United States, as evidenced by a docu-
13 ment issued by the Department of Homeland
14 Security, including an Arrival/Departure Record
15 (Form I-94) (or an equivalent document).

16 “(2) ELIGIBILITY TO OPEN AND MAINTAIN AN
17 ACCOUNT.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (C), a covered institution may
20 not open or maintain an account for any cov-
21 ered individual who is not lawfully present in
22 the United States.

23 “(B) VERIFICATION REQUIREMENT.—

24 “(i) NEW ACCOUNTS.—

1 “(I) IN GENERAL.—Except as
2 provided in clause (ii), beginning on
3 and after the date that is 90 days
4 after the date of enactment of this
5 subjection, a covered individual shall
6 present 1 of the following, which may
7 be an original or certified copy, to
8 open an account at a covered institu-
9 tion:

10 “(aa) A driver’s license or
11 identification card issued by a
12 State that is compliant with sec-
13 tion 202 of the REAL ID Act of
14 2005 (division B of Public Law
15 109–13; 49 U.S.C. 30301 note).

16 “(bb) A United States pass-
17 port or passport card.

18 “(cc) A birth certificate
19 issued by the vital records office
20 of a State, territory, or the Dis-
21 trict of Columbia.

22 “(dd) A Certificate of Natu-
23 ralization (Form N–550, Form
24 N–570, or Form N–578).

1 “(ee) A Certificate of Citi-
2 zenship (Form N-560 or Form
3 N-561).

4 “(ff) A Consular Report of
5 Birth Abroad (Form FS-240) or
6 Certification of Report of Birth
7 (Form DS-1350).

8 “(gg) A Permanent Resident
9 Card (Form I-551).

10 “(hh) A valid, unexpired for-
11 eign passport with a valid Ar-
12 rival/Departure Record (Form I-
13 94) or nonimmigrant visa dem-
14 onstrating lawful admission and
15 lawful presence.

16 “(ii) A Social Security Ad-
17 ministration proof-of-earnings
18 card or statement, presented with
19 a valid driver’s license or identi-
20 fication card issued by a State
21 regardless of whether such li-
22 cense or card was issued in ac-
23 cordance with section 202 of the
24 REAL ID Act of 2005 (division

1 B of Public Law 109–13; 49
2 U.S.C. 30301 note).

3 “(jj) A valid identification
4 card issued by the Department of
5 Defense to a member of the uni-
6 formed services or to a dependent
7 of such a member.

8 “(kk) Any other document
9 determined by the Secretary of
10 Homeland Security, by regula-
11 tion, to be sufficient evidence of
12 United States citizenship or law-
13 ful presence.

14 “(II) AUTHORIZED USERS.—Any
15 individual who does not maintain an
16 account at the covered institution and
17 who is added as a joint holder or au-
18 thorized signer on an account at such
19 institution after the date described in
20 subclause (I) shall be subject to the
21 verification requirements of that sub-
22 clause.

23 “(ii) EXCEPTION.—Clause (i) shall
24 not apply to an individual who maintains
25 an account, before the date described in

1 that clause, at the same covered institution
2 the individual seeks to open an account.

3 “(C) INDIVIDUALS WITH LIMITED PERIOD
4 OF AUTHORIZED STAY.—

5 “(i) DOCUMENTATION OF AUTHOR-
6 IZED STAY.—Any covered individual whose
7 period of authorized stay in the United
8 States is temporary, as of the date on
9 which the individual opens an account at a
10 covered institution, shall provide the cov-
11 ered institution with a certification, on a
12 form prescribed by the Secretary of the
13 Treasury, that—

14 “(I) identifies the expiration date
15 of such authorized stay;

16 “(II) describes the basis for such
17 stay; and

18 “(III) is modeled after the cer-
19 tification requirements applicable to
20 nonresident aliens under chapter 3 of
21 the Internal Revenue Code of 1986.

22 “(ii) GRACE PERIOD AND ACCOUNT
23 CLOSURE.—

24 “(I) IN GENERAL.—Except as
25 provided in subclause (III), beginning

1 on the last day of the period of au-
2 thORIZED stay of a covered individual
3 described in clause (i)(I), the covered
4 individual shall retain full access to
5 the account for a period of 30 days,
6 after which, if the covered individual
7 has not provided updated documenta-
8 tion of lawful presence, the covered in-
9 stitution shall restrict transactions in-
10 volving the account of the covered in-
11 dividual for a period of 60 days in ac-
12 cordance with subclause (II).

13 “(II) TRANSACTION LIMITA-
14 TIONS.—During the 60-day period de-
15 scribed in subclause (I), the covered
16 institution shall—

17 “(aa) permit incoming de-
18 posits, direct deposits, and other
19 credits to the account; and

20 “(bb) prohibit all with-
21 drawals, outgoing transfers, debit
22 or credit card transactions, and
23 wire transfers.

24 “(III) FULL ACCESS.—If the cov-
25 ered individual provides updated docu-

1 mentation of lawful presence during
2 the 30-day or 60-day period described
3 in subclause (I) in accordance with
4 clause (i), the covered institution shall
5 restore full access to the account of
6 the covered individual.

7 “(iii) ACCOUNT CLOSURE.—If the cov-
8 ered individual does not provide updated
9 documentation of lawful presence before
10 the end of the 60-day restricted period de-
11 scribed in clause (ii)(I), the covered insti-
12 tution shall close the account in accordance
13 with regulations promulgated under para-
14 graph (4).

15 “(iv) ACCOUNTS OPENED BY LEGAL
16 ENTITIES.—The requirements of this para-
17 graph shall not apply to accounts opened
18 by legal entities.

19 “(3) FROZEN OR CLOSED ACCOUNT PROCE-
20 DURES.—

21 “(A) IN GENERAL.—Except as provided in
22 paragraph (2)(C), a covered institution shall
23 freeze or close the account of any covered indi-
24 vidual who is not lawfully present in the United

1 States or who is otherwise determined to be in-
2 eligible under this subsection.

3 “(B) APPLICABILITY.—Any applicable pro-
4 vision of law (including regulations) regarding
5 the closure of an account shall apply to an ac-
6 count frozen under this paragraph.

7 “(4) PENALTY.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), any covered institution that
10 violates this subsection shall be subject to a
11 civil penalty.

12 “(B) SAFE HARBORS.—No covered institu-
13 tion may be subject a civil penalty for a viola-
14 tion of this subsection if the covered institu-
15 tion—

16 “(i) makes a good-faith effort to com-
17 ply with this subsection, and the regula-
18 tions promulgated under this subsection;

19 “(ii) accepts any document listed in
20 subparagraph (B)(i)(I) and relies on such
21 document, including in any good-faith clo-
22 sure or freezing of an account under para-
23 graph (3); or

24 “(iii) accepts a driver’s license or
25 identification card issued by a State that

1 requires proof of lawful presence or United
2 States citizenship as a condition for
3 issuance.

4 “(5) ENFORCEMENT.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the Secretary of the Treas-
7 ury, acting through the Director of the Finan-
8 cial Crimes Enforcement Network, shall enforce
9 the provisions of this subsection.

10 “(B) INSURED CREDIT UNIONS.—With re-
11 spect to insured credit unions, the Secretary of
12 the Treasury shall coordinate enforcement with
13 the National Credit Union Administration.

14 “(6) RULEMAKING.—

15 “(A) INTERIM GUIDANCE.—

16 “(i) IN GENERAL.—Not later than 30
17 days after the date of enactment of this
18 subsection, the Secretary of the Treasury
19 shall issue interim guidance carrying out
20 this subsection.

21 “(ii) FORCE AND EFFECT.—The in-
22 terim guidance issued under this subpara-
23 graph shall have the force and effect of a
24 rule promulgated under section 553 of title

1 5 until superseded by final regulations
2 under subparagraph (B).

3 “(iii) INAPPLICABILITY.—Chapter 35
4 of title 44 shall not apply to any collection
5 of information required under the interim
6 guidance issued under this subparagraph.

7 “(B) FINAL REGULATIONS.—Not later
8 than 90 days after the date of enactment of
9 this subsection, the Secretary of the Treasury
10 shall promulgate final regulations carrying out
11 this subsection, including—

12 “(i) the procedures and timing for
13 freezing and closing accounts;

14 “(ii) the notice requirements applica-
15 ble to account holders;

16 “(iii) the handling of distributions or
17 transfers directed to frozen or closed ac-
18 counts, including procedures for re-
19 directing incoming payments; and

20 “(iv) the disbursement or transfer of
21 remaining balances to another financial in-
22 stitution or foreign financial institution
23 designated by the individual.

1 “(7) APPLICABILITY.—Nothing in this sub-
2 section shall apply to, restrict, or impose any addi-
3 tional verification requirements on—

4 “(A) accounts held by nonresident aliens
5 (as defined in section 7701(b)(1)(B) of the In-
6 ternal Revenue Code of 1986) who are not
7 physically present in the United States;

8 “(B) accounts maintained by foreign per-
9 sons, foreign corporations, foreign governments,
10 or other foreign entities not resident or phys-
11 ically present in the United States;

12 “(C) deposits or accounts at branches or
13 agencies of foreign banks in the United States,
14 to the extent attributable to non-resident or for-
15 eign sources;

16 “(D) any other foreign capital inflows, cor-
17 respondent accounts, or international banking
18 liabilities to foreign residents, as reported under
19 the Treasury International Capital system or
20 similar frameworks.

21 “(8) EFFECT ON STATE LAW.—The provisions
22 of this section shall supersede any provisions of the
23 law of any State relating to the verification of the
24 lawful residency of covered individuals by financial

1 institutions chartered, licensed, or operating in the
2 United States.”.

3 **SEC. 3. LIMITATION ON CRIMINAL PENALTIES.**

4 Section 5322 of title 31, United States Code, is
5 amended by adding at the end the following:

6 “(f)(1) In this subsection—

7 “(A) the term ‘active account’—

8 “(i) means an account with which an indi-
9 vidual may conduct transactions; and

10 “(ii) does not include an account that has
11 been restricted or frozen under section 5318(r);
12 and

13 “(B) the terms ‘covered institution’, ‘lawfully
14 present’, and ‘period of authorized stay’ have the
15 meanings given the terms in section 5318(r).

16 “(2)(A) Except as provided in subparagraph (B), Any
17 individual who is not lawfully present in the United States,
18 or whose removal has been ordered under chapter 4 of
19 title II of the Immigration and Nationality Act (8 U.S.C.
20 1221 et seq.), and who opens or maintains an active ac-
21 count at a covered institution, shall be fined not more than
22 \$1,000,000, imprisoned for not more than 1 year, or both.
23 This paragraph does not apply to any individual whose
24 period of authorized stay expired within the preceding 90
25 days, or who has filed an application for asylum under

1 section 208 of the Immigration and Nationality Act (8
2 U.S.C. 1158) that has not been finally adjudicated.

3 “(B) Subparagraph (A) shall not apply to any indi-
4 vidual—

5 “(i) whose period of authorized stay expired
6 within the preceding 90 days; or

7 “(ii) who has filed an application for asylum
8 under section 208 of the Immigration and Nation-
9 ality Act (8 U.S.C. 1158) that has not been finally
10 adjudicated.

11 “(3) Any individual who is not lawfully present in the
12 United States, or whose removal has been ordered under
13 chapter 4 of title II of the Immigration and Nationality
14 Act (8 U.S.C. 1221 et seq.), and who opens or maintains
15 an account at a covered institution through a legal entity,
16 or who directs another person to do so on the behalf of
17 the individual, shall be fined not more than \$1,000,000,
18 imprisoned for not more than 1 year, or both.

19 “(4) Notwithstanding subsections (a) and (b), no per-
20 son shall be subject to criminal penalties under this section
21 solely for a violation of section 5318(r).

22 “(5) Nothing in this subsection shall be construed to
23 limit criminal liability for any criminal violation of Federal
24 law arising independently of a violation of section
25 5318(r).”.