

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, and Mr. ROUNDS) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

8 **SEC. 2. PURPOSES.**

9 The purposes of this Act are—

1 (1) to improve coordination among the agencies
2 tasked with administering anti-money laundering
3 and counter-financing of terrorism requirements, the
4 agencies that examine financial institutions for com-
5 pliance with those requirements, Federal law en-
6 forcement agencies, the intelligence community, and
7 financial institutions;

8 (2) to establish beneficial ownership reporting
9 requirements to improve transparency concerning
10 corporate structures and insight into the flow of il-
11 licit funds through such structures and discourage
12 the use of shell corporations as a tool to disguise il-
13 licit funds;

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

17 (4) to encourage technological innovation and
18 the adoption of new technology by financial institu-
19 tions to more effectively counter money laundering
20 and terrorist financing; and

21 (5) to reinforce that the anti-money laundering
22 and counter-financing of terrorism policies, proce-
23 dures, and controls of financial institutions shall be
24 risk-based.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

6 (2) **BANK SECRECY ACT.**—The term “Bank Se-
7 crecy Act” means—

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

10 (B) chapter 2 of title I of Public Law 91–
11 508 (12 U.S.C. 1951 et seq.); and

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

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

16 (4) **FEDERAL FUNCTIONAL REGULATOR.**—The
17 term “Federal functional regulator” has the mean-
18 ing given the term in section 509 of the Gramm-
19 Leach-Bliley Act (15 U.S.C. 6809).

20 (5) **FINCEN.**—The term “FinCEN” means the
21 Financial Crimes Enforcement Network of the De-
22 partment of the Treasury.

23 (6) **FINANCIAL INSTITUTION.**—The term “fi-
24 nancial institution” has the meaning given the term
25 in section 5312 of title 31, United States Code.

1 (7) SECRETARY.—The term “Secretary” means
2 Secretary of the Treasury.

3 **TITLE I—STRENGTHENING THE**
4 **ABILITY OF FINCEN TO DE-**
5 **TERMINE AND IMPLEMENT**
6 **AML-CFT POLICY**

7 **SEC. 101. ESTABLISHMENT OF NATIONAL EXAM AND SU-**
8 **PERVISION PRIORITIES.**

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

12 **“§ 5311. Declaration of purpose**

13 “It is the purpose of this subchapter (except section
14 5315) to—

15 “(1) prevent the laundering of money and the
16 financing of terrorism through the establishment by
17 financial institutions of risk-based programs to com-
18 bat money laundering and terrorist financing;

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

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

24 “(4) establish a framework for information
25 sharing between financial institutions, FinCEN, and

1 law enforcement to identify, stop, and apprehend
2 money launderers and those who finance terrorists;
3 and

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

10 (b) ANTI-MONEY LAUNDERING PROGRAMS.—Section
11 5318(h)(2) of title 31, United States Code, is amended—

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

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

15 (2) by adding at the end the following:

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

22 “(i) Financial institutions are spend-
23 ing private dollars for a public and private
24 benefit.

1 “(ii) The extension of financial serv-
2 ices to the underbanked, in the United
3 States and abroad is a policy goal of the
4 United States.

5 “(iii) Government access to the sen-
6 sitive personal information of financial con-
7 sumers raises consumer privacy issues.

8 “(iv) Effective anti-money laundering
9 and combating the financing of terrorism
10 programs generate significant public bene-
11 fits by preventing the flow of illicit funds
12 in the financial system and by assisting
13 law enforcement with the identification and
14 prosecution of persons attempting to laun-
15 der money and other illicit activity through
16 the financial system.

17 “(v) Anti-money laundering and com-
18 bating the financing of terrorism programs
19 described in paragraph (1) should be risk-
20 based, including that more financial insti-
21 tution attention and resources should be
22 directed at higher risk customers and ac-
23 tivity given a financial institution’s risk
24 profile than lower risk customers and ac-
25 tivities.”.

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

4 “(K) Establish annual, government-wide
5 anti-money laundering and counter-terrorist fi-
6 nancing examination and supervision priorities
7 for the maintenance of risk-based policies, pro-
8 cedures, and controls designed to detect and re-
9 port financial criminal activities.

10 “(L) Communicate regularly with financial
11 institutions, and Federal functional regulators
12 that examine financial institutions for compli-
13 ance with subchapter II of chapter 53 and reg-
14 ulations issued thereunder, after consultation
15 with law enforcement to explain the govern-
16 ment’s anti-money laundering and counter-ter-
17 rorist financing exam and supervision priorities,
18 and give and receive feedback from financial in-
19 stitutions regarding the matters addressed in
20 subchapter II of chapter 53 and regulations
21 issued thereunder.

22 “(M) Maintain a money laundering and
23 terrorist financing investigations team com-
24 prised of financial experts capable of identi-
25 fying, tracking, and tracing financial crime net-

1 works and identifying emerging threats to con-
2 duct and support Federal civil and criminal in-
3 vestigations.

4 “(N) Maintain an emerging technology
5 team comprised of technology experts to en-
6 courage the development of and identify emerg-
7 ing technologies that can assist the United
8 States Government or financial institutions
9 counter money laundering and terrorist financ-
10 ing, and assist in the evaluation and approval
11 of software under section 301 of the ILLICIT
12 CASH Act.”.

13 (d) ANNUAL PRIORITIES.—Not later than 270 days
14 after the date of enactment of this Act, and annually
15 thereafter, the Secretary, acting through the Office of Ter-
16 rorism and Financial Intelligence and FinCEN, after con-
17 sultation with relevant Federal law enforcement agencies,
18 the Federal functional regulators, the national security
19 agencies, and any other Federal departments and agencies
20 that the Secretary determines appropriate, shall establish
21 and make public its priorities for anti-money laundering
22 and counter terrorist financing policy.

23 (e) SUPERVISION AND EXAMINATION.—The incorpo-
24 ration by financial institutions of the priorities established
25 under subsection (d) into the risk-based programs estab-

1 lished by those financial institutions to meet obligations
2 under the Bank Secrecy Act, the USA PATRIOT Act
3 (Public Law 107–56; 115 Stat. 272), and other anti-
4 money laundering and counter terrorist financing laws and
5 regulations shall form a key basis, along with other rel-
6 evant risk factors, on which the financial institutions are
7 supervised and examined for compliance with those obliga-
8 tions.

9 **SEC. 102. FINCEN COMPETITIVE COMPENSATION.**

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

12 “(e) APPOINTMENTS.—

13 “(1) IN GENERAL.—The Director may fix the
14 number of, and appoint and direct, all employees of
15 FinCEN, in accordance with the applicable provi-
16 sions of title 5, United States Code.

17 “(2) WAIVER AUTHORITY.—

18 “(A) IN GENERAL.—In making any ap-
19 pointment under paragraph (1), the Director
20 may waive the requirements of chapter 33 of
21 title 5, United States Code, and the regulations
22 implementing such chapter, to the extent nec-
23 essary to appoint employees on terms and con-
24 ditions that are consistent with those set forth

1 in section 11(1) of the Federal Reserve Act (12
2 U.S.C. 248(1)), while providing for—

3 “(i) fair, credible, and transparent
4 methods of establishing qualification re-
5 quirements for, recruitment for, and ap-
6 pointments to positions;

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

11 “(iii) fair, credible, and transparent
12 methods of assigning, reassigning, detail-
13 ing, transferring, and promoting employ-
14 ees.

15 “(B) VETERANS PREFERENCES.—In im-
16 plementing this paragraph, the Director shall
17 comply with the provisions of section
18 **[2302(b)(11)]**, regarding veterans’ preference
19 requirements, in a manner consistent with that
20 in which such provisions are applied under
21 chapter 33 of title 5, United States Code. The
22 authority under this paragraph to waive the re-
23 quirements of that chapter 33 shall expire 5
24 years after the date of enactment of this sub-
25 section.

1 “(3) COMPENSATION.—Notwithstanding any
2 otherwise applicable provision of title 5, United
3 States Code, concerning compensation, including the
4 provisions of chapter 51 and chapter 53, the fol-
5 lowing provisions shall apply with respect to employ-
6 ees of FinCEN:

7 “(A) The rates of basic pay for all employ-
8 ees of FinCEN may be set and adjusted by the
9 Director.

10 “(B) The Director shall at all times pro-
11 vide compensation (including benefits) to each
12 class of employees that, at a minimum, are
13 comparable to the compensation and benefits
14 then being provided by the Board of Governors
15 for the corresponding class of employees.

16 “(C) All such employees shall be com-
17 pensated (including benefits) on terms and con-
18 ditions that are consistent with the terms and
19 conditions set forth in section 11(l) of the Fed-
20 eral Reserve Act (12 U.S.C. 248(l)).

21 “(4) AUTHORIZATION OF APPROPRIATIONS.—
22 There is authorized **【\$X】** for fiscal year 2019 to
23 carry out this section.”.

1 **SEC. 103. CREATION OF AML/CFT INVESTIGATOR HUB AND**
2 **TECHNOLOGY TEAM.**

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

6 “(f) INVESTIGATIVE EXPERTS.—

7 “(1) IN GENERAL.—FinCEN shall hire and
8 maintain a team of financial experts capable of iden-
9 tifying, tracking, and tracing money laundering and
10 terrorist financing networks in order to conduct and
11 support civil and criminal anti-money laundering
12 and combating the financing-of-terrorism investiga-
13 tions conducted by the United States Government.

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

21 “(3) STAFFING.—FinCEN should hire or retain
22 as reimburse full time employees, including trained
23 investigative personnel accorded criminal authority
24 and experience in the Bank Secrecy Act to perform
25 the functions contemplated by this subsection, in-

1 including audits and inspections of the access and use
2 of Bank Secrecy Act data.

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

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

13 **SEC. 104. ESTABLISHMENT OF FINCEN FINANCIAL INSTITU-**
14 **TION LIAISON.**

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

18 “(i) OFFICE OF THE FINANCIAL INSTITUTION LIAI-
19 SON ESTABLISHED.—There is established within FinCEN
20 the Office of the Financial Institution Liaison (in this sub-
21 section referred to as the ‘Office’).

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

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

1 “(B) be appointed by the Director, from
2 among individuals having experience in anti-
3 money laundering program examinations, super-
4 vision and enforcement, from the perspective of
5 financial institutions.

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

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

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

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

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

23 “(5) FUNCTIONS OF THE LIAISON.—The Liai-
24 son shall—

1 “(A) receive feedback from financial insti-
2 tutions regarding their examinations under the
3 Bank Secrecy Act and communicate that feed-
4 back to FinCEN and the Federal functional
5 regulators;

6 “(B) help promote coordination and con-
7 sistency of supervisory guidance from FinCEN
8 and the Federal functional regulators regarding
9 subchapter II of chapter 53 of title 31, United
10 States Code (commonly known as the ‘Bank Se-
11 crecy Act’);

12 “(C) act as a liaison between financial in-
13 stitutions and their Federal functional regu-
14 lators with respect to matters involving the
15 Bank Secrecy Act and regulations issued there-
16 under;

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

21 “(E) analyze the potential impact on finan-
22 cial institutions of proposed regulations of
23 FinCEN; and

24 “(F) to the extent practicable, propose to
25 FinCEN changes in the regulations, guidance,

1 or orders of FinCEN and to Congress any legis-
2 lative, administrative, or personnel changes that
3 may be appropriate to mitigate problems identi-
4 fied under this paragraph.

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

12 “(7) ANNUAL REPORTS.—

13 “(A) IN GENERAL.—Not later than June
14 30 of each year after 2019, the Liaison shall
15 submit to the Committee on Banking, Housing,
16 and Urban Affairs of the Senate and the Com-
17 mittee on Financial Services of the House of
18 Representatives a report on the objectives of
19 the Liaison for the following fiscal year and the
20 activities of the Liaison during the immediately
21 preceding fiscal year.

22 “(B) CONTENTS.—Each report required
23 under subparagraph (A) shall include—

24 “(i) appropriate statistical information
25 and full and substantive analysis;

1 “(ii) information on steps that the Li-
2 aision has taken during the reporting pe-
3 riod to address feedback received by finan-
4 cial institutions regarding their examina-
5 tions;

6 “(iii) recommendations for such ad-
7 ministrative and legislative actions as may
8 be appropriate to resolve problems encoun-
9 tered by financial institutions; and

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

12 “(C) SENSITIVE INFORMATION.—Notwith-
13 standing subparagraph (D), FinCEN shall re-
14 view the report listed in subparagraph (A) to
15 ensure the report does not include sensitive in-
16 formation.

17 “(D) INDEPENDENCE.—Each report re-
18 quired under this subsection shall be provided
19 directly to the Committees listed in subpara-
20 graph (A) without any prior review or comment
21 from FinCEN, the Director, any other officer
22 or employee of the Commission, any Federal
23 functional regulator, or the Office of Manage-
24 ment and Budget.

1 “(E) CONFIDENTIALITY.—No report re-
2 quired under subparagraph (A) may contain
3 confidential information.”.

4 **SEC. 105. INTERAGENCY AML-CFT PERSONNEL ROTATION**
5 **PROGRAM.**

6 (a) PURPOSE.—The purpose of this section is to in-
7 crease the efficiency and effectiveness of the Federal Gov-
8 ernment by fostering greater interagency experience
9 among Federal Government personnel on anti-money
10 laundering and counter-terrorist financing matters.

11 (b) DEFINITION.—In this section, the term “AML-
12 CFT Interagency Community of Interest” means the posi-
13 tions in the Federal Government that, as determined by
14 the Secretary, the Federal functional regulators, the De-
15 partment of Justice, the Federal Bureau of Investigation,
16 and such other agencies as the Secretary determines to
17 be appropriate—

18 (1) includes positions within FinCEN, the De-
19 partment of the Treasury, the Department of Jus-
20 tice, the Federal Bureau of Investigation, and, if
21 agreed to by the heads of such agencies, positions
22 within any Federal functional regulator;

23 (2) as a group, are positions within multiple
24 agencies of the Federal Government; and

1 (3) have significant responsibility for the same
2 substantive, functional, or regional subject area re-
3 lated to anti-money laundering or countering the fi-
4 nancing of terrorism that benefits from the integra-
5 tion of the positions and activities in that area
6 across multiple agencies.

7 (c) PROGRAM ESTABLISHED.—

8 (1) IN GENERAL.—Not later than 270 days
9 after the date of the enactment of this Act, the Sec-
10 retary of the Treasury and representatives of the
11 Federal functional regulators, the Department of
12 Justice, the Federal Bureau of Investigation, and
13 such other agencies as the Secretary determines to
14 be appropriate, shall develop and issue an AML-
15 CFT personnel strategy providing policies, processes,
16 and procedures for a program for the interagency
17 rotation of personnel among positions within AML-
18 CFT Interagency Communities of Interest.

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

21 (A) identify specific AML-CFT Inter-
22 agency Communities of Interest for the purpose
23 of carrying out the program;

24 (B) designate agencies to be included or
25 excluded from the program;

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

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

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

8 (ii) individual employees who are
9 available to participate in rotational as-
10 signments under the program; and

11 (E) establish procedures for the program,
12 including—

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

15 (ii) any training and education re-
16 quirements associated with participation in
17 the program;

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

20 (iv) appropriate performance meas-
21 ures, reporting requirements, and other ac-
22 countability devices for the evaluation of
23 the program.

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

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

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

9 (B) not fewer than 20 employees in the
10 Federal Government shall be assigned to par-
11 ticipate in the interagency personnel rotation
12 program;

13 (2) the participation of an employee in the
14 interagency rotation program shall require the con-
15 sent of the head of the agency and shall be voluntary
16 on the part of the employee;

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

1 (4) an employee performing service in a position
2 in another agency pursuant to the program estab-
3 lished under this section shall be entitled to return,
4 within a reasonable period of time after the end of
5 the period of service, to the position held by the em-
6 ployee, or a corresponding or higher position, in the
7 employing agency of the employee;

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

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

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

24 (B) provided the same weight in the re-
25 ceipt of promotions and other rewards by the

1 employee from the employing agency as per-
2 formance evaluations for service in the employ-
3 ing agency.

4 (e) SELECTION OF INDIVIDUALS TO FILL SENIOR
5 POSITIONS.—The head of each agency participating in the
6 program established pursuant to subsection (c) shall en-
7 sure that, in selecting individuals to fill senior positions
8 within an AML-CFT Interagency Community of Interest,
9 the agency gives a strong preference to individuals who
10 have performed interagency rotational service within the
11 AML-CFT Interagency Community of Interest pursuant
12 to such program.

13 **TITLE II—IMPROVING AML-CFT**
14 **COMMUNICATION, OVER-**
15 **SIGHT, AND PROCESSES**

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

17 (a) ANNUAL REPORT.—Not later than 1 year after
18 the date of enactment of this Act, and annually thereafter,
19 the Attorney General, in consultation with Federal law en-
20 forcement agencies and the Director of National Intel-
21 ligence, shall, to the extent practicable at the discretion
22 of the Attorney General, provide to the Secretary statis-
23 tics, metrics, and other information on the use of data
24 derived from financial institutions reporting under this
25 title, including—

1 (1) the extent to which such data is used for
2 terrorism versus nonterrorism related investigations
3 and, with respect to such nonterrorism related inves-
4 tigations, the most common types of laws to which
5 such investigations relate;

6 (2) the frequency with which such data contains
7 actionable information that leads to further law en-
8 forcement procedures, including the use of a sub-
9 poena, warrant, or other legal process;

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

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

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

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

21 (b) **QUINQUENNIAL REPORT.**—Every 5 years after
22 the date of enactment of this Act, the report described
23 in subsection (a) shall include a section describing the use
24 of data derived from financial institution reporting under
25 this subchapter over the previous five years, including de-

1 scribing long-term trends and providing long-term statis-
2 ties, metrics and other information.

3 (c) TRENDS, PATTERNS AND THREATS.—The report
4 described in subsection (a) and the section described in
5 subsection (b) shall contain a description of retrospective
6 trends and emerging patterns and threats in money laun-
7 dering and terrorist financing, including national and re-
8 gional trends, patterns and threats, and trends, patterns
9 and threats relevant to such classes of financial institu-
10 tions that the Attorney General determines appropriate.

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

14 (1) to help assess the usefulness of Bank Se-
15 crecy Act reporting to law enforcement;

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

22 (3) to assist FinCEN in considering revisions to
23 the reporting requirements promulgated under sec-
24 tion 314(d) of the USA PATRIOT Act (31 U.S.C.
25 5311 note); and

1 (4) for any other purpose the Secretary deter-
2 mines is appropriate.

3 **SEC. 202. LAW ENFORCEMENT FEEDBACK ON SUSPICIOUS**
4 **ACTIVITY REPORTS.**

5 (a) FEEDBACK.—The staff of FinCEN shall meet pe-
6 riodically with the person designated under section
7 5318(h)(1) of title 31, United States Code, by each finan-
8 cial institution to review the suspicious activity reports
9 filed by the financial institution during the previous period
10 and discuss trends in suspicious activity observed by
11 FinCEN.

12 (1) FEEDBACK REQUIRED.—The staff of
13 FinCEN shall disclose to the person designated
14 under section 5318(h)(1) of title 31, United States
15 Code, what actions have been taken, if any, by Fed-
16 eral or State law enforcement with respect to the
17 suspicious activity reports filed by the financial insti-
18 tution during the previous year.

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.

24 (3) MAINTENANCE OF STATISTICS.—FinCEN
25 shall keep records of all such actions taken under

1 paragraph (1) to assist with the production of the
2 reports described in section 201 and for other pur-
3 poses.

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

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

20 **SEC. 203. STREAMLINING REQUIREMENTS FOR CURRENCY**
21 **TRANSACTION REPORTS AND SUSPICIOUS**
22 **ACTIVITY REPORTS.**

23 (a) REVIEW.—The Secretary, in consultation with
24 Federal law enforcement agencies, the Director of Na-
25 tional Intelligence, and the Federal functional regulators,

1 and other relevant stakeholders, shall undertake a formal
2 review of the current financial institution reporting re-
3 quirements, including the processes used to submit re-
4 ports, under the Bank Secrecy Act, regulations imple-
5 menting that Act, and related guidance, and make
6 changes to them to reduce unnecessarily burdensome regu-
7 latory requirements and ensure that the information pro-
8 vided is of a high degree of usefulness to law enforcement,
9 as set forth in section 5311 of title 31, United States
10 Code.

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

13 (1) whether the circumstances under which a fi-
14 nancial institution determines whether to file a con-
15 tinuing suspicious activity report, including insider
16 abuse, or the processes followed by a financial insti-
17 tution in determining whether to file a continuing
18 suspicious activity report, or both, can be narrowed;

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

21 (3) the fields designated as critical on the sus-
22 picious activity report form and whether the number
23 of fields should be reduced;

24 (4) the categories, types, and characteristics of
25 suspicious activity reports and currency transaction

1 reports that are of the greatest value to, and that
2 best support, investigative priorities of law enforce-
3 ment and national security personnel;

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

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

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

18 (8) whether the process for the electronic sub-
19 mission of reports could be improved for both finan-
20 cial institutions and law enforcement, including by
21 allowing greater integration between financial insti-
22 tution systems and the electronic filing system to
23 allow for automatic population of report fields and
24 the automatic submission of transaction data for
25 suspicious transactions;

1 (9) the appropriate protection of personal pri-
2 vacy; and

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

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

8 (d) REPORT.—Not later than the end of the 1 year
9 period beginning on the date of the enactment of this Act,
10 the Secretary, in consultation with law enforcement, shall
11 submit to Congress a report that contains all findings and
12 determinations made in carrying out the review required
13 under subsection (a) and propose rulemakings to imple-
14 ment their findings.

15 **SEC. 204. CURRENCY TRANSACTION REPORT AND SUS-**
16 **PICIOUS ACTIVITY REPORT THRESHOLDS RE-**
17 **VIEW.**

18 (a) REVIEW OF THRESHOLDS FOR CERTAIN CUR-
19 RENCY TRANSACTION REPORTS.—The Secretary of the
20 Treasury, in consultation with the Attorney General and
21 the Director of National Intelligence, shall study and de-
22 termine whether the dollar thresholds contained in section
23 5313 of title 31, United States Code, section 5331 of title
24 31, United States Code, 5318(g) of title 31, United States

1 Code, including regulations issued thereunder, should be
2 adjusted.

3 (b) CONSIDERATIONS.—In making the determina-
4 tions described in subsection (a), the Secretary of the
5 Treasury and the Attorney General shall consider—

6 (1) the effects on law enforcement and intel-
7 ligence from adjusting the thresholds;

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

10 (3) the effects on privacy; and

11 (4) any other factor the Secretary, Director of
12 National Intelligence, and the Attorney General con-
13 siders relevant.

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

17 (d) REPORT AND RULEMAKINGS.—Not later than the
18 end of the 1 year period beginning on the date of enact-
19 ment of this Act, the Secretary of the Treasury, in con-
20 sultation with the Attorney General and the intelligence
21 community, shall publish a report on the findings from
22 the review described in subsection (a) and propose
23 rulemakings to implement the findings.

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

2 (a) IN GENERAL.—The Secretary and the Federal
3 functional regulators in consultation with Federal law en-
4 forcement agencies and the Director of National Intel-
5 ligence, shall each undertake a formal review of the regula-
6 tions implementing the Bank Secrecy Act, and guidance
7 related to that Act, to identify those regulations and guid-
8 ance that may be outdated, redundant, unnecessarily bur-
9 densome, or otherwise do not promote a risk-based anti-
10 money laundering compliance and countering the financ-
11 ing of terrorism regime for financial institutions, and
12 make appropriate changes to those regulations and guid-
13 ance.

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

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

24 **SEC. 206. PENALTY COORDINATION.**

25 (a) COORDINATION ON PENALTIES.—Prior to any
26 Federal functional regulator, FinCEN, or the Department

1 of Justice, including any organizational unit thereof,
2 issuing a fine, civil money penalty, or other enforcement
3 order or action, including on consent or pursuant to a set-
4 tlement agreement, with respect to an entity to address
5 any actual or alleged violation of any provision of the
6 Bank Secrecy Act or section 8(s) of the Federal Deposit
7 Insurance Act (12 U.S.C. 1818(s)) or any unsafe or un-
8 sound practice that resulted in any such actual or alleged
9 violation, such Federal department or agency shall endeavor
10 or to coordinate its order or action with all relevant Fed-
11 eral departments and agencies and State law enforcement
12 and financial regulators contemplating an order or action
13 with respect to the same or similar conduct to attempt
14 to develop a single comprehensive or coordinated order or
15 action and to avoid duplicative fines, penalties, and other
16 orders or actions.

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

18 (1) a Federal or State financial regulator deter-
19 mines that complying with subsection (a) is imprac-
20 tical for safety and soundness reasons; or

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

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

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

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

12 (a) SAFE HARBOR WITH RESPECT TO KEEP OPEN
13 LETTERS.—

14 (1) IN GENERAL.—

15 (A) AMENDMENT TO TITLE 31.—Sub-
16 chapter II of chapter 53 of title 31, United
17 States Code, is amended by adding at the end
18 the following:

19 **“§ 5333. Safe harbor with respect to keep open letters**

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

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

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

10 “(b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
11 tion may be construed—

12 “(1) from preventing a Federal or State depart-
13 ment or agency from verifying the validity of a writ-
14 ten request described in subsection (a) with the Fed-
15 eral, State, Tribal, or local law enforcement agency
16 making that written request; or

17 “(2) to relieve a financial institution from com-
18 plying with any reporting requirements, including
19 the reporting of suspicious transactions under sec-
20 tion 5318(g).

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

1 (B) AMENDMENT TO PUBLIC LAW 91–
2 508.—Chapter 2 of title I of Public Law 91–508
3 (12 U.S.C. 1951 et seq.) is amended by adding
4 at the end the following:

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

6 “(a) DEFINITION.—In this section, the term ‘finan-
7 cial institution’ has the meaning given the term in section
8 123(b).

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

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

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

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

1 “(1) from preventing a Federal or State depart-
2 ment or agency from verifying the validity of a writ-
3 ten request described in subsection (b) with the Fed-
4 eral, State, Tribal, or local law enforcement agency
5 making that written request; or

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

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

14 (2) CLERICAL AMENDMENTS.—

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

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

19 (B) PUBLIC LAW 91–508.—The table of
20 contents for chapter 2 of title I of Public Law
21 91–508 (12 U.S.C. 1951 et seq.) is amended by
22 adding at the end the following:

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

23 (b) DETERMINATION OF BUDGETARY EFFECTS.—
24 The budgetary effects of this section, for the purpose of

1 complying with the Statutory Pay-As-You-Go Act of 2010,
2 shall be determined by reference to the latest statement
3 titled “Budgetary Effects of PAYGO Legislation” for this
4 Act, submitted for printing in the Congressional Record
5 by the Chairman of the House Budget Committee, pro-
6 vided that such statement has been submitted prior to the
7 vote on passage.

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

10 **SEC. 301. APPROVED TRANSACTION MONITORING SOFT-**
11 **WARE.**

12 (a) AMENDMENT TO THE BANK SECRECY ACT.—
13 Chapter 53 of title 31, United States Code, as amended
14 by section 101 of this Act, is amended by adding at the
15 end the following:

16 **“SEC. 5334. APPROVED TRANSACTION MONITORING SOFT-**
17 **WARE.**

18 “It is the purpose of this section to—

19 “(1) encourage the development and deploy-
20 ment of transaction monitoring software, including
21 software that uses artificial intelligence and other
22 cutting-edge processes;

23 “(2) establish a process by which new trans-
24 action monitoring software that meets requirements

1 established by this section and by FinCEN can be
2 approved; and

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

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

11 (c) APPLICATION AND APPROVAL.—

12 (1) IN GENERAL.—Software shall become ap-
13 proved transaction monitoring software upon appli-
14 cation by its owner to and approval by FinCEN,
15 subject to standards set by FinCEN.

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

23 (3) PILOTS.—During the pendency of an appli-
24 cation under this subsection, FinCEN may supervise
25 one or more pilots of the software conducted by fi-

1 financial institutions designed to test the software's
2 ability to meet the standards for approval promul-
3 gated under this section.

4 (d) GUIDANCE.—

5 (1) IN GENERAL.—In determining whether soft-
6 ware should be approved transaction monitoring
7 software under this section, or as part of any peri-
8 odic examination of a transaction monitoring soft-
9 ware under the next section, FinCEN shall establish
10 for financial institutions using approved transaction
11 monitoring software investigative priorities defined
12 by level of riskiness according to the transaction
13 monitoring algorithm.

14 (2) INVESTIGATIVE PRIORITIES.—

15 (A) IN GENERAL.—The investigative prior-
16 ities shall include—

17 (i) low risk transactions that shall not
18 require further investigation by the finan-
19 cial institution and that does not warrant
20 the filing of a report under the Bank Se-
21 crecy Act;

22 (ii) medium risk transactions that re-
23 quire an investigation by the financial in-
24 stitution and may, depending on the re-
25 sults of the investigation, warrant the fil-

1 ing of a report under the Bank Secrecy
2 Act; and

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

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

12 (3) FEEDBACK.—

13 (A) IN GENERAL.—As part of the guidance
14 process and periodic and regular examinations
15 of the transaction monitoring service company
16 by FinCEN, FinCEN, after consultation with
17 the Federal intelligence and law enforcement
18 communities, shall provide feedback and guid-
19 ance to the vendor of the approved transaction
20 monitoring software, including regarding trans-
21 actions that led to important law enforcement
22 investigations and transactions that were false
23 positives.

24 (B) SHARING.—The information described
25 in subparagraph (A) does not need to be shared

1 with the vendor of the approved transaction
2 monitoring software if FinCEN, or a Federal
3 intelligence or law enforcement entity, deter-
4 mines it would jeopardize and ongoing inves-
5 tigation or is otherwise too sensitive to share.

6 (C) DIRECT FEEDBACK.—FinCEN shall
7 endeavor to provide feedback directly to the ap-
8 proved transaction monitoring software to the
9 extent feasible consistent with subparagraph
10 (B).

11 (4) TRANSPARENCY.—The algorithm described
12 in paragraph (1) shall be made transparent so that
13 reasons for flagging a transaction as potentially sus-
14 picious are available to FinCEN.

15 (e) SUPERVISORY AND EXAMINATION AUTHORI-
16 TIES.—

17 (1) IN GENERAL.—FinCEN shall have full ex-
18 amination and supervisory authorities, including ac-
19 cess to the algorithm and models of the transaction
20 monitoring service company.

21 (2) PERIODIC AND REGULAR EXAMINATION.—
22 FinCEN shall periodically and regularly examine
23 each approved transaction monitoring software—

1 (A) to determine whether the approved
2 transaction monitoring software is in compli-
3 ance with the law; and

4 (B) to update the investigative priorities
5 with respect to the approved transaction moni-
6 toring software under paragraph (c)(2).

7 (3) TRANSACTION MONITORING COMPLIANCE.—

8 (A) IN GENERAL.—A financial institution
9 using approved transaction monitoring software
10 shall not be subject to any transaction moni-
11 toring requirements promulgated by its applica-
12 ble Federal functional regulator.

13 (B) EXAMINATION.—A financial institution
14 not using transaction monitoring software ap-
15 proved by FinCEN under this section shall be
16 examined for compliance with transaction moni-
17 toring rules as otherwise provided in this chap-
18 ter.

19 (C) RULE OF CONSTRUCTION.—This sec-
20 tion shall not be construed as requiring finan-
21 cial institutions to use approved transaction
22 monitoring software to comply with transaction
23 monitoring requirements promulgated by the
24 applicable Federal functional regulators.

1 (4) PARALLEL RUN.—FinCEN, in consultation
2 with the Federal functional regulators, may require
3 a financial institution beginning to use approved
4 transaction monitoring software that it is not cur-
5 rently using to run its existing transaction moni-
6 toring software in parallel with the new approved
7 transaction monitoring software for a limited period
8 of time to confirm the efficacy of the new approved
9 transaction monitoring software.

10 (5) DATA RETENTION AND CYBERSECURITY.—
11 FinCEN—

12 (A) may retain the software, software code,
13 models and other sensitive information of the
14 transaction monitoring service company for only
15 as long as it is necessary to perform its super-
16 visory or examination duties; and **[Note: *IP***
17 ***concerns?*]**

18 (B) shall ensure the software, software
19 code, models, and other sensitive information
20 described in subparagraph (A) is handled sub-
21 ject to strict cybersecurity standards.

22 **SEC. 302. DEIDENTIFIED AML INFORMATION.**

23 (a) AMENDMENT TO THE GRAMM-LEACH-BLILEY
24 ACT.—Title V of the Gramm-Leach-Bliley Act (15 U.S.C.

1 6801 et seq.) is amended by inserting after section 509
2 (15 U.S.C. 6809) the following:

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

4 “(a) DEFINITIONS.—In this section:

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

11 “(b) PROCESS.—A financial institution may deter-
12 mine that financial institution information is deidentified
13 information only if—

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

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

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

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

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

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

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

16 “(2) the financial institution does not use or
17 disclose the code or other means of record identifica-
18 tion for any other purpose, and does not disclose the
19 mechanism for reidentification.

20 “(d) PERMISSIBLE USE.—

21 “(1) LIMITED USE OF DATA.—De-identified in-
22 formation sent or received by a financial institution
23 shall not be used for any purpose except attempting
24 to identify suspicious activity that may merit the fil-

1 ing of a suspicious activity report under section
2 5318(g) of title 31, United States Code.

3 “(2) NO FURTHER COMMUNICATION.—

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

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

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

15 “(f) LIMITED USE OF DATA.—An approved commu-
16 nications system and anonymized data received by a finan-
17 cial institution through an approved communications sys-
18 tem shall not be used for any purpose.

19 “(g) RULEMAKING.—No later than 1 year after the
20 date of the enactment of this section, the Bureau of Con-
21 sumer Financial Protection shall issue regulations to carry
22 out the amendments made by this section.”.

1 **SEC. 303. NO ACTION LETTERS.**

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

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

7 “(1) IN GENERAL.—The Director of FinCEN
8 and the Federal functional regulators shall jointly
9 promulgate regulations and guidance to establish a
10 process for the issuance of a no-action letter by
11 FinCEN and the relevant Federal functional regu-
12 lators in response to an inquiry from a person con-
13 cerning the application of the Bank Secrecy Act, the
14 USA PATRIOT Act (Public Law 107–56; 115 Stat.
15 272), section 8(s) of the Federal Deposit Insurance
16 Act (12 U.S.C. 1818(s)), or any other anti-money
17 laundering and counter-terrorism financing law (in-
18 cluding regulations) to specific conduct, which shall
19 include a statement as to whether FinCEN or any
20 relevant Federal functional regulator has any inten-
21 tion of taking an enforcement action against the per-
22 son with respect to such conduct.

23 “(2) PERSONS COVERED.—A person described
24 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; and

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 the
10 relevant Federal functional regulators with respect
11 to changes in guidance issued, regulations promul-
12 gated, fines assessed, or enforcement actions taken
13 after the date on which the no-action letter is issued.

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

19 **SEC. 304. BRANCH AND AFFILIATE COORDINATION.**

20 (a) SHARING SUSPICIOUS ACTIVITY REPORTS WITH-
21 IN A FINANCIAL GROUP.—Section 5318(g) of title 31,
22 United States Code, is amended by adding at the end the
23 following:

24 “(5) SHARING WITH FOREIGN BRANCHES AND
25 AFFILIATES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B) and notwithstanding any
3 other provision of law, not later than 180 days
4 after the date of the enactment of this para-
5 graph, the Secretary of the Treasury, after con-
6 sultation with law enforcement, shall promul-
7 gate regulations permitting a financial institu-
8 tion to share information on reports under this
9 subsection with any foreign branch or affiliate
10 of the financial institution for the purpose of
11 combating illicit finance risks.

12 “(B) EXCEPTION.—In promulgating the
13 regulations required under subparagraph (A),
14 the Secretary may not permit a financial insti-
15 tution to share information on reports under
16 this subsection with a foreign branch or affiliate
17 located in a jurisdiction that—

18 “(i) is subject to countermeasures im-
19 posed by the Federal Government;

20 “(ii) based on the policies and prior-
21 ities and environment for financial institu-
22 tions in that jurisdiction, the Secretary has
23 determined cannot reasonably protect the
24 privacy of such information or would oth-

1 otherwise endanger or frustrate law enforce-
2 ment efforts; or

3 “(C) NON-FATF JURISDICTIONS.—Infor-
4 mation sharing between a financial institution
5 and any foreign branch or affiliate of the finan-
6 cial institution that is located in a jurisdiction
7 that is not a member of the Financial Agency
8 Task Force shall be done pursuant to a con-
9 fidentiality agreement substantially in a form
10 prescribed by the Secretary.

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

15 (b) NOTIFICATION PROHIBITIONS.—Section
16 5318(g)(2)(A) of title 31, United States Code, is amend-
17 ed—

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

1 referred to in clause (i) has been served,
2 and any director, officer, employee, or
3 agent of such foreign bank, shall not vol-
4 untarily disclose to a person not employed
5 by the foreign bank the fact that it re-
6 ceived a summons or subpoena or any of
7 the information contained in that summons
8 or subpoena.”.

9 (b) FOREIGN EVIDENTIARY REQUESTS.—Section
10 5318(k)(3) of title 31, United States Code, is amended
11 by adding after new subparagraph (D) as follows:

12 “(D) COURT ORDERS AND CONTEMPT.—

13 “(i) COURT ORDERS.—If the Sec-
14 retary of the Attorney General (in each
15 case, in consultation with the other) deter-
16 mines that a foreign bank has failed to
17 comply with a summons or subpoena
18 issued under subparagraph (A), the Sec-
19 retary of the Treasury or the Attorney
20 General (in each case, in consultation with
21 the other) may initiate proceedings in a
22 United States court seeking a court order
23 to compel compliance with such summons
24 or subpoena.

1 “(ii) CONTEMPT.—If the Secretary of
2 the Attorney General (in each case, in con-
3 sultation with the other) determines that a
4 foreign bank has failed to comply with a
5 court order described in clause (i), the Sec-
6 retary of the Attorney General (in each
7 case, in consultation with the other) may
8 petition the United States court that
9 issued the court order to levy a civil or
10 criminal contempt fine on the foreign
11 bank.”.

12 **SEC. 306. UPDATING WHISTLEBLOWER INCENTIVES AND**
13 **PROTECTION.**

14 (a) WHISTLEBLOWER INCENTIVES AND PROTEC-
15 TION.—

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

18 **“§ 5323. Whistleblower incentives and protections**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
21 ACTION.—The term ‘covered judicial or administra-
22 tive action’ means any judicial or administrative ac-
23 tion brought by the Treasury or the Department of
24 Justice under subchapters II and III of this title

1 that results in monetary sanctions exceeding
2 \$1,000,000.

3 “(2) FUND.—The term ‘Fund’ means the Anti-
4 Money Laundering and Counter-Terrorism Financ-
5 ing Fund.

6 “(3) ORIGINAL INFORMATION.—The term
7 ‘original information’ means information that—

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

10 “(B) is not known to the Treasury, the
11 Department of Justice or an appropriate regu-
12 lator, unless the whistleblower is the original
13 source of the information; and

14 “(C) is not exclusively derived from an al-
15 legation made in a judicial or administrative
16 hearing, in a governmental report, hearing,
17 audit, or investigation, or from the news media,
18 unless the whistleblower is a source of the infor-
19 mation.

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

24 “(5) RELATED ACTION.—The term ‘related ac-
25 tion’, when used with respect to any judicial or ad-

1 ministrative action brought by the Treasury or the
2 Department of Justice under subchapters II and III
3 of this title, means any judicial action brought by an
4 entity that is based upon the original information
5 provided by a whistleblower pursuant to subsection
6 (a) that led to the successful enforcement of the
7 Treasury or Department of Justice action.

8 “(6) WHISTLEBLOWER.—The term ‘whistle-
9 blower’ means any individual who provides, or 2 or
10 more individuals acting jointly who provide, informa-
11 tion relating to a violation of the laws under sub-
12 chapters II and III of this title to the Treasury, in
13 a manner established, by rule or regulation, by the
14 Treasury.

15 “(b) AWARDS.—

16 “(1) IN GENERAL.—In any covered judicial ac-
17 tion, or related action, the Treasury, under regula-
18 tions prescribed by the Treasury and subject to sub-
19 section (c), may pay an award or awards to 1 or
20 more whistleblowers who voluntarily provided origi-
21 nal information to the Treasury that led to the suc-
22 cessful enforcement of the covered judicial or admin-
23 istrative action, or related action, in an aggregate
24 amount equal to—

1 “(A) not less than 10 percent, in total, of
2 what has been collected of the monetary sanc-
3 tions imposed in the action or related actions;
4 and

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

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

10 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
11 TERMINATION OF AWARD.—

12 “(1) DETERMINATION OF AMOUNT OF
13 AWARD.—

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

17 “(B) CRITERIA.—In determining the
18 amount of an award made under subsection (b),
19 the Treasury —

20 “(i) shall take into consideration—

21 “(I) the significance of the infor-
22 mation provided by the whistleblower
23 to the success of the covered judicial
24 or administrative action;

1 “(II) the degree of assistance
2 provided by the whistleblower and any
3 legal representative of the whistle-
4 blower in a covered judicial or admin-
5 istrative action;

6 “(III) the programmatic interest
7 of the Treasury in deterring violations
8 of the laws under subchapters II and
9 III of this title by making awards to
10 whistleblowers who provide informa-
11 tion that leads to the successful en-
12 forcement of such laws; and

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

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

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

20 “(A) to any whistleblower who is, or was at
21 the time the whistleblower acquired the original
22 information submitted to the Treasury, a mem-
23 ber, officer, or employee of—

24 “(i) an appropriate regulatory agency;

1 “(ii) the Department of Justice or the
2 Treasury;

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

4 “(iv) a law enforcement organization;

5 “(B) to any whistleblower who is convicted
6 of a criminal violation related to the judicial or
7 administrative action for which the whistle-
8 blower otherwise could receive an award under
9 this section; or

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

13 “(d) REPRESENTATION.—

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

17 “(2) REQUIRED REPRESENTATION.—

18 “(A) IN GENERAL.—Any whistleblower
19 who anonymously makes a claim for an award
20 under subsection (b) shall be represented by
21 counsel if the whistleblower anonymously sub-
22 mits the information upon which the claim is
23 based.

24 “(B) DISCLOSURE OF IDENTITY.—Prior to
25 the payment of an award, a whistleblower shall

1 disclose the identity of the whistleblower and
2 provide such other information as the Treasury
3 may require, directly or through counsel for the
4 whistleblower.

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

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

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

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

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

5 “(3) DEPOSITS AND CREDITS.—

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

14 “(B) ADDITIONAL AMOUNTS.—If the
15 amounts deposited into or credited to the Fund
16 under subparagraph (A) are not sufficient to
17 satisfy an award made under subsection (b),
18 there shall be deposited into or credited to the
19 Fund an amount equal to the unsatisfied por-
20 tion of the award from any monetary sanction
21 collected by the Treasury or the Department of
22 Justice in the covered judicial or administrative
23 action on which the award is based.

24 “(4) INVESTMENTS.—

1 “(A) AMOUNTS IN FUND MAY BE IN-
2 VESTED.—The Secretary of the Treasury may
3 invest the portion of the Fund that is not, in
4 the discretion of the Secretary of the Treasury,
5 required to meet the current needs of the Fund.

6 “(B) ELIGIBLE INVESTMENTS.—Invest-
7 ments shall be made by the Secretary of the
8 Treasury in obligations of the United States or
9 obligations that are guaranteed as to principal
10 and interest by the United States, with matu-
11 rities suitable to the needs of the Fund as de-
12 termined by the Treasury.

13 “(C) INTEREST AND PROCEEDS CRED-
14 ITED.—The interest on, and the proceeds from
15 the sale or redemption of, any obligations held
16 in the Fund shall be credited to the Fund.

17 “(5) REPORTS TO CONGRESS.—Not later than
18 October 30 of each fiscal year, the Treasury shall
19 submit to the Committee on Banking, Housing, and
20 Urban Affairs of the Senate, and the Committee on
21 Financial Services of the House of Representatives
22 a report on—

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

1 “(i) a description of the number of
2 awards granted; and

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

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

8 “(C) the amounts deposited into or cred-
9 ited to the Fund during the preceding fiscal
10 year;

11 “(D) the amount of earnings on invest-
12 ments made under paragraph (4) during the
13 preceding fiscal year;

14 “(E) the amount paid from the Fund dur-
15 ing the preceding fiscal year to whistleblowers
16 pursuant to subsection (b);

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

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

21 “(i) a balance sheet;

22 “(ii) income statement; and

23 “(iii) cash flow analysis.

24 “(h) CONFIDENTIALITY.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3), the Treasury and any officer or
3 employee of the Treasury shall not disclose any in-
4 formation, including information provided by a whis-
5 tleblower to the Treasury, which could reasonably be
6 expected to reveal the identity of a whistleblower, ex-
7 cept in accordance with the provisions of section
8 552a of title 5, unless and until required to be dis-
9 closed to a defendant or respondent in connection
10 with a public proceeding instituted by the Treasury
11 or any entity described in paragraph (3). For pur-
12 poses of section 552 of title 5, this paragraph shall
13 be considered a statute described in subsection
14 (b)(3)(B) of such section.

15 “(2) EXEMPTED STATUTE.—For purposes of
16 section 552 of title 5, this paragraph shall be consid-
17 ered a statute described in subsection (b)(3)(B) of
18 such section 552.

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

1 “(4) AVAILABILITY TO GOVERNMENT AGEN-
2 CIES.—

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

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

14 “(ii) an appropriate regulatory au-
15 thority;

16 “(iii) a self-regulatory organization;

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

19 “(v) any appropriate State regulatory
20 authority;

21 “(vi) the Public Company Accounting
22 Oversight Board;

23 “(vii) a foreign securities authority;
24 and

1 “(viii) a foreign law enforcement au-
2 thority.

3 “(B) CONFIDENTIALITY.—

4 “(i) IN GENERAL.—Each of the enti-
5 ties described in clauses (i) through (vi) of
6 subparagraph (A) shall maintain such in-
7 formation as confidential in accordance
8 with the requirements established under
9 paragraph (1).

10 “(ii) FOREIGN AUTHORITIES.—Each
11 of the entities described in clauses (vii)
12 and (viii) of subparagraph (A) shall main-
13 tain such information in accordance with
14 such assurances of confidentiality as the
15 Treasury determines appropriate.

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

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

1 “(1) knowingly and willfully makes any false,
2 fictitious, or fraudulent statement or representation;
3 or

4 “(2) uses any false writing or document know-
5 ing the writing or document contains any false, ficti-
6 tious, or fraudulent statement or entry.

7 “(j) RULEMAKING AUTHORITY.—The Treasury shall
8 have the authority to issue such rules and regulations as
9 may be necessary or appropriate to implement the provi-
10 sions of this section consistent with the purposes of this
11 section.”.

12 (2) TECHNICAL AND CONFORMING AMEND-
13 MENT.—The table of sections for chapter 53 of title
14 31, United States Code, is amended by striking the
15 item relating to section 5323 and inserting the fol-
16 lowing:

 “5323. Whistleblower incentives and protections.”.

17 **SEC. 307. DIGITAL CURRENCY.**

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

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

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

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

1 “(D) as the Secretary shall provide by reg-
2 ulation, value that is issued or repurposed to
3 substitute for currency.”.

4 **SEC. 308. FIGHT ILLICIT NETWORKS AND DETECT TRAF-**
5 **FICKING ACT.**

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

7 (1) According to the Drug Enforcement Admin-
8 istration (DEA) 2017 National Drug Threat Assess-
9 ment, transnational criminal organizations are in-
10 creasingly using virtual currencies.

11 (2) The Treasury Department has recognized
12 that: “The development of virtual currencies is an
13 attempt to meet a legitimate market demand. Ac-
14 cording to a Federal Reserve Bank of Chicago econ-
15 omist, United States consumers want payment op-
16 tions that are versatile and that provide immediate
17 finality. No United States payment method meets
18 that description, although cash may come closest.
19 Virtual currencies can mimic cash’s immediate final-
20 ity and anonymity and are more versatile than cash
21 for online and cross-border transactions, making vir-
22 tual currencies vulnerable for illicit transactions.”.

23 (3) Virtual currencies have become a prominent
24 method to pay for goods and services associated with
25 illegal sex trafficking and drug trafficking, which are

1 two of the most detrimental and troubling illegal ac-
2 tivities facilitated by online marketplaces.

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

7 (5) According to the International Labour Or-
8 ganization, in 2016, 4,800,000 people in the world
9 were victims of forced sexual exploitation, and in
10 2014, the global profit from commercial sexual ex-
11 ploitation was \$99,000,000,000.

12 (6) In 2016, within the United States, the Cen-
13 ter for Disease Control estimated that there were
14 64,000 deaths related to drug overdose, and the
15 most severe increase in drug overdoses were those
16 associated with fentanyl and fentanyl analogs (syn-
17 thetic opioids), which amounted to over 20,000 over-
18 dose deaths.

19 (7) According to the United States Department
20 of the Treasury 2015 National Money Laundering
21 Risk Assessment, an estimated \$64,000,000,000 is
22 generated annually from United States drug traf-
23 ficking sales.

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

4 (b) GAO STUDY.—

5 (1) STUDY REQUIRED.—The Comptroller Gen-
6 eral of the United States shall conduct a study on
7 how virtual currencies and online marketplaces are
8 used to facilitate sex and drug trafficking. The study
9 shall consider—

10 (A) how online marketplaces, including the
11 dark web, are being used as platforms to buy,
12 sell, or facilitate the financing of goods or serv-
13 ices associated with sex trafficking or drug traf-
14 ficking (specifically, opioids and synthetic
15 opioids, including fentanyl, fentanyl analogs,
16 and any precursor chemicals associated with
17 manufacturing fentanyl or fentanyl analogs)
18 destined for, originating from, or within the
19 United States;

20 (B) how financial payment methods, in-
21 cluding virtual currencies and peer-to-peer mo-
22 bile payment services, are being utilized by on-
23 line marketplaces to facilitate the buying, sell-
24 ing, or financing of goods and services associ-

1 ated with sex or drug trafficking destined for,
2 originating from, or within the United States;

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

9 (D) how illicit funds that have been trans-
10 mitted online and through virtual currencies are
11 repatriated into the formal banking system of
12 the United States through money laundering or
13 other means;

14 (E) the participants (state and non-state
15 actors) throughout the entire supply chain that
16 participate in or benefit from the buying, sell-
17 ing, or financing of goods and services associ-
18 ated with sex or drug trafficking (either
19 through online marketplaces or virtual cur-
20 rencies) destined for, originating from, or with-
21 in the United States;

22 (F) Federal and State agency efforts to
23 impede the buying, selling, or financing of
24 goods and services associated with sex or drug
25 trafficking destined for, originating from, or

1 within the United States, including efforts to
2 prevent the proceeds from sex or drug traf-
3 ficking from entering the United States banking
4 system;

5 (G) how virtual currencies and their under-
6 lying technologies can be used to detect and
7 deter these illicit activities; and

8 (H) to what extent can the immutable and
9 traceable nature of virtual currencies contribute
10 to the tracking and prosecution of illicit fund-
11 ing.

12 (2) SCOPE.—For the purposes of the study re-
13 quired under subsection (a), the term “sex traf-
14 ficking” means the recruitment, harboring, transpor-
15 tation, provision, obtaining, patronizing, or soliciting
16 of a person for the purpose of a commercial sex act
17 that is induced by force, fraud, or coercion, or in
18 which the person induced to perform such act has
19 not attained 18 years of age.

20 (c) REPORT TO CONGRESS.—Not later than 1 year
21 after the date of enactment of this Act, the Comptroller
22 General of the United States shall submit to the Com-
23 mittee on Banking, Housing, and Urban Affairs of the
24 Senate and the Committee on Financial Services of the
25 House of Representatives a report summarizing the re-

1 sults of the study required under subsection (a), together
2 with any recommendations for legislative or regulatory ac-
3 tion that would improve the efforts of Federal agencies
4 to impede the use of virtual currencies and online market-
5 places in facilitating sex and drug trafficking.

6 **SEC. 309. ADDITIONAL STUDIES.**

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

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

20 (2) the most appropriate ways to promote fi-
21 nancial inclusion, address the adverse consequences
22 of financial institutions de-risking entire categories
23 of relationships, and minimize the negative effects of
24 anti-money laundering and counter-terrorism financ-
25 ing requirements on the persons described in para-

1 graph (1) without compromising the effectiveness of
2 the anti-money laundering and counter-terrorism re-
3 gime.

4 **TITLE IV—BENEFICIAL OWNER-**
5 **SHIP DISCLOSURE REQUIRE-**
6 **MENTS**

7 **SEC. 401. BENEFICIAL OWNERSHIP.**

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

11 **“§ 5336. Transparent incorporation practices**

12 “(a) DEFINITIONS.—In this section:

13 “(1) ACCEPTABLE IDENTIFICATION DOCU-
14 MENT.—A natural person has an acceptable identi-
15 fication document if that person has a non-expired
16 passport issued by the United States, a non-expired
17 identification document issued by a State, local gov-
18 ernment, or Federally recognized Indian Tribe to an
19 individual acting for the purpose of identification of
20 that individual, or a non-expired driver’s license
21 issued by a State; or, if the natural person does not
22 have any such document, a non-expired passport
23 issued by a foreign government.

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

1 “(A) means, with respect to an entity, a
2 natural person who directly or indirectly,
3 through any contract, arrangement, under-
4 standing, relationship, or otherwise—

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

7 “(ii) owns 25 percent or more of the
8 equity interests of such entity or receives
9 substantial economic benefits from the as-
10 sets of such entity; and

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

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

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

18 “(iii) a person acting solely as an em-
19 ployee of a corporation or limited liability
20 company and whose control over or eco-
21 nomic benefits from the corporation or lim-
22 ited liability company derives solely from
23 the employment status of the person;

1 “(iv) a person whose only interest in
2 a corporation or limited liability company
3 is through a right of inheritance; or

4 “(v) a creditor of a corporation or
5 limited liability company, unless the cred-
6 itor meets the requirements of subpara-
7 graph (A).

8 “(C) SUBSTANTIAL CONTROL.—For pur-
9 poses of paragraph (2), a natural person has
10 substantial control over an entity if that person
11 (i) has an entitlement to the funds or assets of
12 the entity that, as a practical matter, enables
13 the person, directly or indirectly, to control,
14 manage, or direct the entity, or (ii) is otherwise
15 able to control the entity as defined by the Sec-
16 retary.

17 “(3) EIN.—The term ‘EIN’ means the em-
18 ployer identification number assigned under section
19 6109 of the Internal Revenue Code of 1986.

20 “(4) FINCEN.—The term ‘FinCEN’ means the
21 Financial Crimes Enforcement Network of the De-
22 partment of the Treasury.

23 “(5) FINCEN IDENTIFIER.—The term ‘FinCEN
24 identifier’ means the unique identifying number as-
25 signed by FinCEN to a person under this section.

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

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

5 “(i) created by the filing of a docu-
6 ment with a Secretary of State or a similar
7 office under the law of a State or Indian
8 tribe; or

9 “(ii) formed under the law of a for-
10 eign country and registered to do business
11 in a State by the filing of a document with
12 a Secretary of State or a similar office
13 under the law of the State;

14 “(B) does not include—

15 “(i) an issuer of a class of securities
16 registered under section 12 of the Securi-
17 ties Exchange Act of 1934 (15 U.S.C.
18 781) or that is required to file reports
19 under section 15(d) of that Act (15 U.S.C.
20 78o(d));

21 “(ii) a business concern constituted or
22 sponsored by a State, a political subdivi-
23 sion of a State, under an interstate com-
24 pact between two or more States, by a de-

1 partment or agency of the United States,
2 or under the laws of the United States;

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

6 “(iv) a credit union (as defined in sec-
7 tion 101 of the Federal Credit Union Act
8 (12 U.S.C. 1752));

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

12 “(vi) a broker or dealer (as defined in
13 section 3 of the Securities Exchange Act of
14 1934 (15 U.S.C. 78c)) that is registered
15 under section 15 of the Securities Ex-
16 change Act of 1934 (15 U.S.C. 78o);

17 “(vii) an exchange or clearing agency
18 (as defined in section 3 of the Securities
19 Exchange Act of 1934 (15 U.S.C. 78c))
20 that is registered under section 6 or 17A
21 of the Securities Exchange Act of 1934
22 (15 U.S.C. 78f and 78q-1);

23 “(viii) an investment company (as de-
24 fined in section 3 of the Investment Com-
25 pany Act of 1940 (15 U.S.C. 80a-3)) or

1 an investment adviser (as defined in sec-
2 tion 202(11) of the Investment Advisers
3 Act of 1940 (15 U.S.C. 80b-2(11))), if the
4 company or adviser is registered with the
5 Securities and Exchange Commission, or
6 has filed an application for registration
7 which has not been denied, under the In-
8 vestment Company Act of 1940 (15 U.S.C.
9 80a-1 et seq.) or the Investment Adviser
10 Act of 1940 (15 U.S.C. 80b-1 et seq.);

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

14 “(x) a registered entity (as defined in
15 section 1a of the Commodity Exchange Act
16 (7 U.S.C. 1a)), or a futures commission
17 merchant, introducing broker, commodity
18 pool operator, or commodity trading advi-
19 sor (as defined in section 1a of the Com-
20 modity Exchange Act (7 U.S.C. 1a)) that
21 is registered with the Commodity Futures
22 Trading Commission;

23 “(xi) a public accounting firm reg-
24 istered in accordance with section 102 of
25 the Sarbanes-Oxley Act (15 U.S.C. 7212);

1 “(xii) a public utility that provides
2 telecommunications service, electrical
3 power, natural gas, or water and sewer
4 services, within the United States;

5 “(xiii) a church, charity, or nonprofit
6 entity that is described in section 501(c),
7 527, or 4947(a)(1) of the Internal Revenue
8 Code of 1986, that has not been denied tax
9 exempt status, and that has filed the most
10 recently due annual information return
11 with the Internal Revenue Service, if re-
12 quired to file such a return;

13 “(xiv) any business concern that—

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

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

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

24 “(xv) any corporation or limited liabil-
25 ity company formed and owned by an enti-

1 ty described in clause (i), (ii), (iii), (iv),
2 (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),
3 (xiii), or (xiv); and

4 “(xvi) any business concern or class of
5 business concerns which the Secretary of
6 the Treasury, with the written concurrence
7 of the Attorney General of the United
8 States, has determined should be exempt
9 from the requirements of subsection (a) be-
10 cause requiring beneficial ownership infor-
11 mation from the business concern or class
12 of business concerns would not serve the
13 public interest and would not assist law en-
14 forcement efforts to detect, prevent, or
15 punish terrorism, money laundering, tax
16 evasion, or other misconduct; and

17 “(7) STATE.—The term ‘State’ means any
18 State, commonwealth, territory, or possession of the
19 United States, the District of Columbia, the Com-
20 monwealth of Puerto Rico, the Commonwealth of the
21 Northern Mariana Islands, American Samoa, Guam,
22 or the United States Virgin Islands.

23 “(8) SUBSTANTIAL ECONOMIC BENEFITS.—The
24 term ‘substantial economic benefits’ means an enti-
25 tlement to more than **[X]** percentage of the funds

1 or assets of an entity that the Secretary by rule
2 shall establish.

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

10 “(b) BENEFICIAL OWNERSHIP REPORTING.—

11 “(1) REPORTING.—

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

17 “(B) REPORTING OF EXISTING ENTI-
18 TIES.—In accordance with regulations pre-
19 scribed by the Secretary, any reporting com-
20 pany that has been formed under the laws of a
21 State or Indian tribe prior to the date of enact-
22 ment of this section, shall, in a timely manner,
23 and not later than 2 years after the date of en-
24 actment of this section, submit to FinCEN a

1 report that contains the information described
2 in paragraph (2).

3 “(C) REPORTING AT TIME OF INCORPORA-
4 TION.—In accordance with regulations pre-
5 scribed by the Secretary, any reporting com-
6 pany that has been formed under the laws of a
7 State or Indian tribe after the date of enact-
8 ment of this section, shall, at the time of incor-
9 poration, submit to FinCEN a report that con-
10 tains the information described in paragraph
11 (2).

12 “(D) UPDATED REPORTING.—In accord-
13 ance with regulations prescribed by the Sec-
14 retary, a reporting company shall, in a timely
15 manner, and not later than 90 days after the
16 date on which any information described in
17 paragraph (2) changes, deliver to FinCEN a re-
18 port that includes the information described in
19 paragraph (2).

20 “(E) OTHER REQUIREMENTS.—In promul-
21 gating the regulation prescribed in subpara-
22 graphs (A), (B), (C), and (D), the Secretary
23 shall endeavor, to the extent practicable—

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 changes to bene-
11 ficial ownership, to ensure the usefulness
12 of beneficial ownership information for law
13 enforcement and national security pur-
14 poses;

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

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

23 “(2) REQUIRED INFORMATION.—In accordance
24 with regulations prescribed by the Secretary, a re-
25 port delivered under paragraph (1) shall include—

1 “(A) the legal name, business or residen-
2 tial address, jurisdiction of formation, date of
3 formation, and EIN of the reporting company
4 or, if the reporting company is a limited liabil-
5 ity company with a sole member, such mem-
6 ber’s unique identifying number;

7 “(B) the legal name, business or residen-
8 tial address, nationality or jurisdiction of for-
9 mation, as applicable, date of birth or date of
10 formation, as applicable, and EIN or unique
11 identification number, as applicable, of any en-
12 tity or natural person that is a beneficial owner;
13 and

14 “(C) the legal name, business or residen-
15 tial address, nationality, and date of birth of a
16 single natural person with significant responsi-
17 bility to manage the reporting company.

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

24 “(c) RETENTION AND DISCLOSURE OF BENEFICIAL
25 OWNERSHIP INFORMATION BY FINCEN.—

1 “(1) RETENTION, AND DISCLOSURE.—

2 “(A) RETENTION OF INFORMATION.—Ben-
3 eficial ownership information required under
4 subparagraphs (A), (B), and (C) of subsection
5 (b)(2), relating to each corporation or limited li-
6 ability company formed under the laws of the
7 State shall be maintained by FinCEN until the
8 end of the 5-year period beginning on the date
9 that the corporation or limited liability company
10 terminates.

11 “(B) DISCLOSURE.—FinCEN shall dis-
12 close the beneficial owners of a reporting com-
13 pany identified under paragraph (1), and may
14 report the additional information described in
15 paragraph (2), upon receipt of—

16 “(i) a request, through appropriate
17 protocols, by a local, Tribal, State, or Fed-
18 eral agency;

19 “(ii) a request made by a Federal
20 agency on behalf of a law enforcement
21 agency of another country under an inter-
22 national treaty, agreement, or convention,
23 or an order under section 3512 of title 18
24 or section 1782 of title 28, issued in re-
25 sponse to a request for assistance in an in-

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

9 “(iii) a request made by a financial
10 institution or any other entity or person
11 subject to customer due diligence require-
12 ments, with the consent of the reporting
13 company, to facilitate the compliance of
14 the financial institution or other entity or
15 person with customer due diligence re-
16 quirements under applicable Federal law or
17 State law.

18 “(C) RULE OF CONSTRUCTION.—Informa-
19 tion provided to a local, tribal, State, or Federal
20 agency under this paragraph may only be used
21 for law enforcement, money laundering, ter-
22 rorist financing, national security or intelligence
23 purposes.

24 “(d) SUMMONS AUTHORITY.—To assess the com-
25 pleteness and accuracy of a report delivered to FinCEN

1 under subsection (b), the Secretary or FinCEN, may sum-
2 mon any person, including any reporting company and any
3 director, officer or employee of any reporting company, to
4 appear at a time and place named in the summons and
5 produce such books, records or other data, and give such
6 testimony, as may be relevant or material to identifying
7 the beneficial owners of a reporting company —

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

10 “(2) to produce such books, records, or other
11 data of such reporting company and to give such
12 testimony, under oath, as may be relevant to the in-
13 quiry.

14 “(e) DUE DILIGENCE OBLIGATIONS.—

15 “(1) IN GENERAL.—A financial institution sub-
16 ject to customer due diligence requirements that has
17 knowledge that the information contained in the
18 database maintained by FinCEN under subsection
19 (c) conflicts with any information the financial insti-
20 tution shall—

21 “(A) report such discrepancy to FinCEN

22 “(B) and inform the relevant customer of
23 their obligations under this section.

1 “(2) PERIODIC LISTS.—Each financial institu-
2 tion subject to customer due diligence requirements
3 shall—

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

9 “(B) inform the customer of their obliga-
10 tions under this section.

11 “(f) STATE NOTIFICATION OF FEDERAL OBLIGA-
12 TIONS.—Each State that receives funding under section
13 5336(c) shall, not later than 2 years after the date of en-
14 actment of this section, take the following actions:

15 “(1) The Secretary of State or a similar office
16 in each State responsible for the establishment of
17 entities created by the filing of a public document
18 with such office under the law of such State shall
19 periodically, including at the time of any renewal of
20 any license to do business in such State and in con-
21 nection with State corporate tax renewals, notify fil-
22 ers of their requirements as reporting companies
23 under this section, including the requirement under
24 subparagraph (b)(1)(B), and provide them with a
25 copy of the reporting company form created by the

1 Secretary under this section or an internet link to
2 such form.

3 “(2) The Secretary of State or a similar office
4 in each State responsible for the establishment of
5 entities created by the filing of a public document
6 with such office under the law of such State shall
7 update its websites, forms relating to incorporation
8 and physical premises to notify filers of their re-
9 quirements as reporting companies under this sec-
10 tion, including providing an internet link to the re-
11 porting company form created by the Secretary
12 under this section.

13 “(g) NO BEARER SHARE CORPORATIONS OR LIM-
14 ITED LIABILITY COMPANIES.—A corporation or limited li-
15 ability company formed under the laws of a State may
16 not issue a certificate in bearer form evidencing either a
17 whole or fractional interest in the corporation or limited
18 liability company.

19 “(h) PENALTIES.—

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

22 “(A) knowingly providing, or attempting to
23 provide, false or fraudulent beneficial ownership
24 information, including a false or fraudulent

1 identifying photograph, to FinCEN in accord-
2 ance with subsection (b) or (d);

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

7 “(C) knowingly disclosing the existence of
8 a subpoena or other request for beneficial own-
9 ership information reported pursuant to sub-
10 section (b) or (d), except—

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

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

15 “(2) CIVIL AND CRIMINAL PENALTIES.—

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

19 “(i) shall be liable to the United
20 States for a civil penalty of not more than
21 \$10,000 per day of such violation; and

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

25 “(B) DE MINIMIS VIOLATIONS.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), any person who com-
3 mits a de minimis violation of subpara-
4 graph (A) or (C) of paragraph (1) shall be
5 liable to the United States for a civil pen-
6 alty of not more than \$500 per day of such
7 violation.

8 “(ii) REASONABLE STEPS.—

9 “(I) IN GENERAL.—Clause (i)
10 shall not apply to any person that
11 takes reasonable steps, as prescribed
12 by the Secretary, to update the bene-
13 ficial ownership information a timely
14 manner upon—

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

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

20 “(II) ASSISTANCE.—FinCEN
21 shall provide assistance, without
22 threat of penalty, to any person seek-
23 ing to remedy a de minimis violation
24 of paragraph (1).

1 “(iii) REPEATED VIOLATIONS.—The
2 Secretary may consider repeated de mini-
3 mis violations of paragraph (1) as evidence
4 of a willful violation of that paragraph.

5 “(3) RECOMMENDATION OF REVOCATION.—
6 FinCEN may recommend to the relevant State at-
7 torney general that a reporting company in violation
8 of paragraph (1) should have its authorization to do
9 business revoked under State law.

10 “(4) PUBLIC LIST OF NON-COMPLIANT COMPA-
11 NIES AND PERSONS.—FinCEN shall maintain and
12 make public a list of all reporting companies and
13 persons that it reasonably believes is not compliant
14 with the provisions of this section and the nature of
15 the breach associated with each non-compliant re-
16 porting company and person.

17 “(5) CRIMINAL PENALTY FOR THE MISUSE OR
18 UNAUTHORIZED DISCLOSURE OF BENEFICIAL OWN-
19 ERSHIP INFORMATION.—The criminal penalties pro-
20 vided for under section 5322 shall apply to a viola-
21 tion of this section to the same extent as such crimi-
22 nal penalties apply to a violation described in section
23 5322, if the violation of this section consists of the
24 misuse or unauthorized disclosure of beneficial own-
25 ership information.

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

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

14 “(B) REPORT.—The Inspector General of
15 the Department of the Treasury shall submit to
16 the Secretary a report on the investigation re-
17 quired under this paragraph.

18 “(C) ACTIONS OF THE SECRETARY.—Upon
19 receiving a report submitted under subpara-
20 graph (B), the Secretary shall—

21 “(i) determine whether the Director of
22 FinCEN had any responsibility for the cy-
23 bersecurity breach or whether policies,
24 practices, or procedures implemented at

1 the direction of the Director of FinCEN
2 led to the cybersecurity breach; and

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

9 “(7) USER COMPLAINT PROCESS.—

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

16 “(B) REPORT.—The Inspector General
17 shall submit to Congress a semiannual report
18 summarizing external complaints and related
19 investigations by the Inspector General related
20 to the collection of beneficial ownership infor-
21 mation.

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

24 “(1) provide clarity to entities with respect to
25 the identification and disclosure of a natural person

1 who receives substantial economic benefits from the
2 assets of an entity; and

3 “(2) identify those natural persons who, as a
4 result of the substantial economic benefits they re-
5 ceive, exercise a dominant influence over the enti-
6 ty.”.

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

9 (1) in section 5321(a)—

10 (A) in paragraph (1), by striking “sections
11 5314 and 5315” each place it appears and in-
12 serting “sections 5314, 5315, and 5336; and

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

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

19 (3) in the table of contents of chapter 53 of
20 title 31, United States Code, as amended by section
21 106 of this Act, by adding at the end the following:

“5336. Transparent incorporation practices.”.

22 (c) FUNDING AUTHORIZATION.—

23 (1) IN GENERAL.—To carry out section 5336 of
24 title 31, United States Code, as added by subsection
25 (a), during the 3-year period beginning on the date

1 of enactment of this Act, funds shall be made avail-
2 able to the FinCEN and the States to pay reason-
3 able costs relating to compliance with the require-
4 ments of such section.

5 (2) FUNDING SOURCES.—Funds shall be pro-
6 vided to FinCEN and the States to carry out the
7 purposes described in paragraph (1) from one or
8 more of the following sources:

9 (A) Upon application by FinCEN or a
10 State, and without further appropriation, the
11 Secretary of the Treasury shall make available
12 to the FinCEN or such State unobligated bal-
13 ances described in section 9703(g)(4)(B) of title
14 31, United States Code, in the Department of
15 the Treasury Forfeiture Fund established under
16 section 9703(a) of title 31, United States Code.

17 (B) Upon application by FinCEN or a
18 State, after consultation with the Secretary of
19 the Treasury, and without further appropria-
20 tion, the Attorney General of the United States
21 shall make available to FinCEN or such State
22 excess unobligated balances (as defined in sec-
23 tion 524(c)(8)(D) of title 28, United States
24 Code) in the Department of Justice Assets For-

1 feiture Fund established under section 524(c)
2 of title 28, United States Code.

3 (3) MAXIMUM AMOUNTS.—

4 (A) DEPARTMENT OF THE TREASURY.—

5 The Secretary of the Treasury may not make
6 available to FinCEN a total of more than
7 \$30,000,000 and the States a total of not more
8 than \$5,000,000 under paragraph (2)(A).

9 (B) DEPARTMENT OF JUSTICE.—The At-

10 torney General of the United States may not
11 make available to FinCEN a total of more than
12 \$10,000,000 and the States a total of not more
13 than \$5,000,000 under paragraph (2)(B).

14 (d) FEDERAL CONTRACTORS.—Not later than the
15 first day of the first full fiscal year beginning at least 1
16 year after the date of the enactment of this Act, the Ad-
17 ministrators for Federal Procurement Policy shall revise
18 the Federal Acquisition Regulation maintained under sec-
19 tion 1303(a)(1) of title 41, United States Code, to require
20 any contractor who is subject to the requirement to dis-
21 close beneficial ownership information under section 5336
22 of title 31, United States Code, to provide the information
23 required to be disclosed under such section to the Federal
24 Government as part of any bid or proposal for a contract
25 with a value threshold in excess of the simplified acquisi-

1 tion threshold under section 134 of title 41, United States
2 Code.

3 (e) REVISED DUE DILIGENCE RULEMAKING.—Not
4 later than one year after the date of the enactment of this
5 Act, the Secretary of the Treasury shall prescribe regula-
6 tions to carry out this section.

7 **SEC. 402. EXPANSION OF GEOGRAPHIC TARGETING OR-**
8 **DERS.**

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

12 **“§ 5337. Reports on domestic real estate transactions**

13 “(a) IN GENERAL.—The Secretary shall require any
14 person involved in a transaction related to the purchase
15 and sale of real estate to file a report described in sub-
16 section (b) with respect to such transaction (or related
17 transactions) at such time and in such manner as the Sec-
18 retary may, by regulation, prescribe.

19 “(b) REPORT DESCRIBED.—A report is described in
20 this subsection if the report—

21 “(1) is in such form as the Secretary may pre-
22 scribe; and

23 “(2) contains—

24 “(A) the name, and such other identifica-
25 tion information as the Secretary may require,

1 of the natural person purchasing such real es-
2 tate;

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

5 “(C) the date and nature of the trans-
6 action; and

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

10 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

11 The table of sections for chapter 53 of title 31, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

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

14 **SEC. 403. BENEFICIAL OWNERSHIP STUDIES.**

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

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

23 (2) identifying each State that requires persons
24 seeking to form or register partnerships, trusts, or
25 other legal entities under the laws of the State to

1 provide beneficial owners (as that term is defined in
2 section **【533X(X)(X)】** of title 31, United States
3 Code, as added by this Act) or beneficiaries of such
4 entities, and the nature of the required information;

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

8 (A) raises concerns about the involvement
9 of such entities in terrorism, money laundering,
10 tax evasion, securities fraud, or other mis-
11 conduct; and

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

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

20 (b) **EFFECTIVENESS OF INCORPORATION PRACTICES**
21 **STUDY.**—Not later than 5 years after the date of enact-
22 ment of this Act, the Comptroller General of the United
23 States shall conduct a study and submit to the Congress
24 a report assessing the effectiveness of incorporation prac-

1 tices implemented under this Act, and the amendments
2 made by this Act, in—

3 (1) providing law enforcement agencies with
4 prompt access to reliable, useful, and complete bene-
5 ficial ownership information; and

6 (2) strengthening the capability of law enforce-
7 ment agencies to—

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

10 (B) detect, prevent, or punish terrorism,
11 money laundering, tax evasion, or other mis-
12 conduct.