

Union Calendar No. 410

106TH CONGRESS
2^D SESSION

H. R. 3886

[Report No. 106-728]

To combat international money laundering, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2000

Mr. LEACH (for himself, Mr. LAFALCE, Mrs. ROUKEMA, and Mr. VENTO) introduced the following bill; which was referred to the Committee on Banking and Financial Services

JULY 11, 2000

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 9, 2000]

A BILL

To combat international 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *“International Counter-Money Laundering and Foreign*
 4 *Anticorruption Act of 2000”.*

5 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 6 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

*TITLE I—INTERNATIONAL COUNTER-MONEY LAUNDERING
 MEASURES*

*Sec. 101. Special measures for jurisdictions, financial institutions, or inter-
 national transactions of primary money laundering concern.*

*TITLE II—CURRENCY TRANSACTION REPORTING AMENDMENTS AND
 RELATED IMPROVEMENTS*

Sec. 201. Amendments relating to reporting of suspicious activities.

*Sec. 202. Penalties for violations of geographic targeting orders and certain rec-
 ordkeeping requirements, and lengthening effective period of geo-
 graphic targeting orders.*

*Sec. 203. Authorization to include suspicions of illegal activity in written em-
 ployment references.*

Sec. 204. Bank Secrecy Act Advisory Group.

Sec. 205. Agency reports on reconciling penalty amounts.

TITLE III—ANTICORRUPTION MEASURES

Sec. 301. Corruption of foreign governments and ruling elites.

Sec. 302. Support for the Financial Action Task Force on Money Laundering.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) *FINDINGS.*—*The Congress finds as follows:*

9 (1) *Money laundering, estimated by the Inter-*
 10 *national Monetary Fund to amount to between 2 and*
 11 *5 percent of global gross domestic product which is at*
 12 *least \$600,000,000,000 annually, provides the finan-*
 13 *cial fuel that permits transnational criminal enter-*
 14 *prises to conduct and expand their operations to the*

1 *detriment of the safety and security of American citi-*
2 *zens.*

3 (2) *Money launderers subvert legitimate finan-*
4 *cial mechanisms and banking relationships by using*
5 *them as protective covering for the movement of*
6 *criminal proceeds and, by so doing, can undermine*
7 *the integrity of our financial institutions and of the*
8 *global financial and trading systems upon which our*
9 *prosperity and growth depend.*

10 (3) *Money launderers rely upon the existence*
11 *and use of certain jurisdictions outside the United*
12 *States that offer bank secrecy and special tax or regu-*
13 *latory advantages to nonresidents, and often com-*
14 *plement those advantages with weak financial super-*
15 *visory and regulatory regimes.*

16 (4) *Certain kinds of transactions involving such*
17 *offshore jurisdictions—for example, those transactions*
18 *specifically designed to offer anonymity or the avoid-*
19 *ance of regulatory scrutiny—make it difficult for law*
20 *enforcement officials and regulators to follow the trail*
21 *of money earned by criminals and organized inter-*
22 *national criminal enterprises that undermine United*
23 *States national interests and traffic in human mis-*
24 *ery, whether they are narcotics dealers, terrorists,*

1 *arms smugglers, traffickers in human beings, or those*
2 *whose frauds prey upon law abiding citizens.*

3 *(5) Certain banking relationships between finan-*
4 *cial institutions in the United States and financial*
5 *institutions located in such offshore jurisdictions, such*
6 *as correspondent and payable-through accounts, are*
7 *particularly vulnerable to abuse because of the dif-*
8 *ficulty in obtaining accurate information about the*
9 *beneficial owners whose funds pass through such ac-*
10 *counts.*

11 *(6) The ability to mount effective counter-meas-*
12 *ures to international money launderers requires na-*
13 *tional, as well as bilateral and multilateral action,*
14 *using tools specially designed for that effort.*

15 *(7) The Basle Committee on Banking Regulation*
16 *and Supervisory Practices and the Financial Action*
17 *Task Force on Money Laundering, both of which the*
18 *United States is a member, have each adopted inter-*
19 *national anti-money laundering principles and rec-*
20 *ommendations.*

21 *(b) PURPOSES.—The purposes of this Act are as fol-*
22 *lows:*

23 *(1) To ensure that banking transactions and fi-*
24 *nancial relationships, the conduct of such trans-*
25 *actions and relationships, or both, do not contravene*

1 *the purposes of subchapter II of chapter 53 of title 31,*
2 *United States Code, section 21 of the Federal Deposit*
3 *Insurance Act, and chapter 2 of title I of Public Law*
4 *91–508, or facilitate the evasion of any such provi-*
5 *sion, to ensure that the purposes of such subchapter*
6 *II continue to be fulfilled, and to guard against inter-*
7 *national money laundering and other financial*
8 *crimes.*

9 *(2) To provide a clear national mandate for sub-*
10 *jecting to special scrutiny those foreign jurisdictions,*
11 *financial institutions operating outside the United*
12 *States, and classes of international transactions that*
13 *pose particular, identifiable opportunities for money*
14 *laundering.*

15 *(3) To provide the Secretary of the Treasury*
16 *with broad discretionary authority to take certain*
17 *measures tailored to the particular money laundering*
18 *problems presented by specific foreign jurisdictions,*
19 *financial institutions operating outside the United*
20 *States, and classes of international transactions.*

21 *(4) To provide domestic financial institutions*
22 *with guidance on particular foreign jurisdictions, fi-*
23 *nancial institutions operating outside the United*
24 *States, and classes of international transactions that*

1 *are of primary money laundering concern to the*
2 *United States government.*

3 *(5) To clarify the terms of the safe harbor from*
4 *civil liability for filing suspicious activity reports.*

5 *(6) To strengthen the Secretary's authority to*
6 *issue and administer geographic targeting orders, and*
7 *to clarify that violations of such orders or any other*
8 *requirement imposed under the authority contained*
9 *in chapter 2 of title I of Public Law 91-508 and sub-*
10 *chapters II and III of chapter 53 of title 31, United*
11 *States Code, may result in criminal and civil pen-*
12 *alties.*

13 *(7) To strengthen the ability of financial institu-*
14 *tions to maintain the integrity of their employee pop-*
15 *ulation.*

16 *(8) To strengthen measures to prevent the use of*
17 *the United States financial system for personal gain*
18 *by corrupt foreign officials and to facilitate the repa-*
19 *triation of any stolen assets to the citizens of coun-*
20 *tries to whom such assets belong.*

1 **TITLE I—INTERNATIONAL COUN-**
2 **TER—MONEY LAUNDERING**
3 **MEASURES**

4 **SEC. 101. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
5 **CIAL INSTITUTIONS, OR INTERNATIONAL**
6 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
7 **DERING CONCERN.**

8 (a) *IN GENERAL.*—Subchapter II of chapter 53 of title
9 31, United States Code, is amended by inserting after sec-
10 tion 5318 the following new section:

11 **“§ 5318A. Special measures for jurisdictions, financial**
12 **institutions, or international transactions**
13 **of primary money laundering concern**

14 **“(a) INTERNATIONAL COUNTER-MONEY LAUNDERING**
15 **REQUIREMENTS.**—

16 **“(1) IN GENERAL.**—The Secretary may require
17 domestic financial institutions and domestic financial
18 agencies to take 1 or more of the special measures de-
19 scribed in subsection (b) if the Secretary finds that
20 reasonable grounds exist for concluding that a juris-
21 diction outside the United States, 1 or more financial
22 institutions operating outside the United States, or 1
23 or more classes of transactions within, or involving,
24 a jurisdiction outside the United States is of primary

1 *money laundering concern, in accordance with sub-*
2 *section (c).*

3 “(2) *FORM OF REQUIREMENT.*—*The special*
4 *measures described in subsection (b) may be imposed*
5 *by regulation, order, or otherwise as permitted by*
6 *law, and in such sequence or combination, as the Sec-*
7 *retary shall determine.*

8 “(3) *PROCESS FOR SELECTING SPECIAL MEAS-*
9 *URES.*—

10 “(A) *CONSULTATION.*—*In selecting which*
11 *special measure or measures to take under this*
12 *subsection, the Secretary shall consult with the*
13 *Chairman of the Board of Governors of the Fed-*
14 *eral Reserve System and, in the Secretary’s sole*
15 *discretion, such other agencies and interested*
16 *parties as the Secretary may find to be appro-*
17 *priate.*

18 “(B) *FACTORS.*—*The Secretary also shall*
19 *consider—*

20 “(i) *whether similar action has been or*
21 *is being taken by other nations or multilat-*
22 *eral groups;*

23 “(ii) *whether the imposition of any*
24 *particular special measure would create a*
25 *significant competitive disadvantage, in-*

1 cluding any undue cost or burden associated
2 with compliance, for financial institutions
3 organized or licensed in the United States;
4 and

5 “(iii) the extent to which the action
6 would have a significant adverse systemic
7 impact on the international payment, clear-
8 ance and settlement system, or on legitimate
9 business activities involving the particular
10 jurisdiction, institution, or class of trans-
11 actions.

12 “(4) *NO LIMITATION ON OTHER AUTHORITY.*—
13 This section shall not be construed as superseding or
14 otherwise restricting any other authority granted to
15 the Secretary, or to any other agency, by this sub-
16 chapter or otherwise.

17 “(b) *SPECIAL MEASURES.*—The special measures re-
18 ferred to in subsection (a), with respect to a jurisdiction
19 outside the United States, financial institution operating
20 outside the United States, or class of transaction within,
21 or involving, a jurisdiction outside the United States, are
22 as follows:

23 “(1) *RECORDKEEPING AND REPORTING OF CER-*
24 *TAIN FINANCIAL TRANSACTIONS.*—

1 “(A) *IN GENERAL.*—*The Secretary may re-*
2 *quire any domestic financial institution or do-*
3 *mestic financial agency to maintain records, file*
4 *reports, or both, concerning the aggregate*
5 *amount of transactions, or concerning each*
6 *transaction, with respect to a jurisdiction out-*
7 *side the United States, 1 or more financial insti-*
8 *tutions operating outside the United States, or 1*
9 *or more classes of transactions within, or involv-*
10 *ing, a jurisdiction outside the United States, if*
11 *the Secretary finds any such jurisdiction, insti-*
12 *tution, or class of transactions to be of primary*
13 *money laundering concern.*

14 “(B) *FORM OF RECORDS AND REPORTS.*—
15 *Such records and reports shall be made and re-*
16 *tained at such time, in such manner, and for*
17 *such period of time, as the Secretary shall deter-*
18 *mine, and shall include such information as the*
19 *Secretary may determine, including—*

20 “(i) *the identity and address of the*
21 *participants in a transaction or relation-*
22 *ship, including the identity of the origi-*
23 *nator of any funds transfer;*

24 “(ii) *the legal capacity in which a par-*
25 *ticipant in any transaction is acting;*

1 “(iii) information concerning the bene-
2 ficial ownership of the funds involved in
3 any transaction, in accordance with steps
4 the Secretary has determined to be reason-
5 able and practicable to obtain and retain
6 such information; and

7 “(iv) a description of any transaction.

8 “(2) INFORMATION RELATING TO BENEFICIAL
9 OWNERSHIP.—In addition to any other requirement
10 under any other law, the Secretary may require any
11 domestic financial institution or domestic financial
12 agency to take such steps as the Secretary may deter-
13 mine to be reasonable and practicable to obtain and
14 retain information concerning the beneficial owner-
15 ship of any account opened or maintained in the
16 United States by a foreign person (other than a for-
17 eign entity whose shares are subject to public report-
18 ing requirements or are listed and traded on a regu-
19 lated exchange or trading market), or a representative
20 of such a foreign person, that involves a jurisdiction
21 outside the United States, 1 or more financial institu-
22 tions operating outside the United States, or 1 or
23 more classes of transactions within, or involving, a
24 jurisdiction outside the United States, if the Secretary

1 *finds any such jurisdiction, institution, or trans-*
2 *action to be of primary money laundering concern.*

3 “(3) *INFORMATION RELATING TO CERTAIN PAY-*
4 *ABLE-THROUGH ACCOUNTS.—If the Secretary finds a*
5 *jurisdiction outside the United States, 1 or more fi-*
6 *nancial institutions operating outside the United*
7 *States, or 1 or more classes of transactions within, or*
8 *involving, a jurisdiction outside the United States to*
9 *be of primary money laundering concern, the Sec-*
10 *retary may require any domestic financial institution*
11 *or domestic financial agency that opens or maintains*
12 *a payable-through account in the United States for a*
13 *foreign financial institution involving any such juris-*
14 *isdiction or any such financial institution operating*
15 *outside the United States, or a payable-through ac-*
16 *count through which any such transaction may be*
17 *conducted, as a condition of opening or maintaining*
18 *such account, to—*

19 “(A) *identify each customer (and represent-*
20 *ative of such customer) of such financial institu-*
21 *tion who is permitted to use, or whose trans-*
22 *actions are routed through, such payable-through*
23 *account; and*

24 “(B) *obtain, with respect to each such cus-*
25 *tomers (and each such representative), the same*

1 *information that the depository institution ob-*
2 *tains in the ordinary course of business with re-*
3 *spect to its customers residing in the United*
4 *States.*

5 “(4) *INFORMATION RELATING TO CERTAIN COR-*
6 *RESPONDENT ACCOUNTS.—If the Secretary finds a ju-*
7 *risdiction outside the United States, 1 or more finan-*
8 *cial institutions operating outside the United States,*
9 *or 1 or more classes of transactions within, or involv-*
10 *ing, a jurisdiction outside the United States to be of*
11 *primary money laundering concern, the Secretary*
12 *may require any domestic financial institution or do-*
13 *mestic financial agency that opens or maintains a*
14 *correspondent account in the United States for a for-*
15 *foreign financial institution involving any such jurisdic-*
16 *tion or any such financial institution operating out-*
17 *side the United States, or a correspondent account*
18 *through which any such transaction may be con-*
19 *ducted, as a condition of opening or maintaining*
20 *such account, to—*

21 “(A) *identify each customer (and represent-*
22 *ative of such customer) of any such financial in-*
23 *stitution who is permitted to use, or whose trans-*
24 *actions are routed through, such correspondent*
25 *account; and*

1 “(B) obtain, with respect to each such cus-
2 tomer (and each such representative), the same
3 information that the depository institution ob-
4 tains in the ordinary course with respect to its
5 customers residing in the United States.

6 “(5) *PROHIBITIONS OR CONDITIONS ON OPENING*
7 *OR MAINTAINING CERTAIN CORRESPONDENT OR PAY-*
8 *ABLE-THROUGH ACCOUNTS.—If the Secretary finds a*
9 *jurisdiction outside the United States, 1 or more fi-*
10 *ancial institutions operating outside the United*
11 *States, or 1 or more classes of transactions within, or*
12 *involving, a jurisdiction outside the United States to*
13 *be of primary money laundering concern, the Sec-*
14 *retary, in consultation with the Secretary of State,*
15 *the Attorney General, and the Chairman of the Board*
16 *of Governors of the Federal Reserve System, may pro-*
17 *hibit, or impose conditions upon, the opening or*
18 *maintaining in the United States of a correspondent*
19 *account or payable-through account by any domestic*
20 *financial institution or domestic financial agency for*
21 *or on behalf of a foreign banking institution if such*
22 *correspondent account or payable-through account in-*
23 *volves any such jurisdiction or institution, or if any*
24 *such transaction may be conducted through such cor-*
25 *respondent account or payable-through account.*

1 “(c) *CONSULTATIONS AND INFORMATION TO BE CON-*
2 *SIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, OR*
3 *TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING*
4 *CONCERN.*—

5 “(1) *IN GENERAL.*—*In making a finding that*
6 *reasonable grounds exist for concluding that a juris-*
7 *isdiction outside the United States, 1 or more financial*
8 *institutions operating outside the United States, or 1*
9 *or more classes of transactions within, or involving,*
10 *a jurisdiction outside the United States is of primary*
11 *money laundering concern so as to authorize the Sec-*
12 *retary to invoke 1 or more of the special measures of*
13 *subsection (b), the Secretary shall consult with the*
14 *Secretary of State, the Attorney General, the Sec-*
15 *retary of Commerce, and the United States Trade*
16 *Representative.*

17 “(2) *INFORMATION.*—*The Secretary also shall*
18 *consider such information as the Secretary considers*
19 *to be relevant, including the following potentially rel-*
20 *evant factors:*

21 “(A) *In the case of a particular*
22 *jurisdiction—*

23 “(i) *the extent to which that jurisdic-*
24 *tion or financial institutions operating*
25 *therein offer bank secrecy or special tax or*

1 *regulatory advantages to nonresidents or*
2 *nondomiciliaries of such jurisdiction;*

3 *“(ii) the substance and quality of ad-*
4 *ministration of that jurisdiction’s bank su-*
5 *pervisory and counter-money laundering*
6 *laws;*

7 *“(iii) the relationship between the vol-*
8 *ume of financial transactions occurring in*
9 *that jurisdiction and the size of the jurisdic-*
10 *tion’s economy;*

11 *“(iv) the extent to which that jurisdic-*
12 *tion is characterized as a tax haven or off-*
13 *shore banking or secrecy haven by credible*
14 *international organizations or multilateral*
15 *expert groups;*

16 *“(v) whether the United States has a*
17 *mutual legal assistance treaty with that ju-*
18 *risdiction, and the experience of United*
19 *States law enforcement officials, regulatory*
20 *officials, and tax administrators in obtain-*
21 *ing information about transactions origi-*
22 *nating in or routed through or to such ju-*
23 *risdiction; and*

1 “(vi) the extent to which that jurisdic-
2 tion is characterized by high levels of offi-
3 cial or institutional corruption.

4 “(B) In the case of a decision to apply 1 or
5 more of the special measures described in sub-
6 section (b) only to a financial institution or in-
7 stitutions, or to a transaction or class of trans-
8 actions, or to both, within, or involving, a par-
9 ticular jurisdiction—

10 “(i) the extent to which such financial
11 institutions or transactions are used to fa-
12 cilitate or promote money laundering in or
13 through the jurisdiction;

14 “(ii) the extent to which such institu-
15 tions or transactions are used for legitimate
16 business purposes in such jurisdiction; and

17 “(iii) the extent to which such action is
18 sufficient to ensure, with respect to trans-
19 actions involving such jurisdiction and in-
20 stitutions operating in such jurisdiction,
21 that the purposes of this subchapter con-
22 tinue to be fulfilled, and to guard against
23 international money laundering and other
24 financial crimes.

1 “(d) *NOTIFICATION OF SPECIAL MEASURES INVOKED*
2 *BY THE SECRETARY.*—*Within 10 days after the date of any*
3 *action taken by the Secretary under subsection (a)(1), the*
4 *Secretary shall notify, in writing, the Committee on Bank-*
5 *ing and Financial Services of the House of Representatives*
6 *and the Committee on Banking, Housing, and Urban Af-*
7 *airs of the Senate of any such action.*

8 “(e) *DEFINITIONS.*—*Notwithstanding any other provi-*
9 *sion of this subchapter, for purposes of this section, the fol-*
10 *lowing definitions shall apply:*

11 “(1) *DEFINED TERMS.*—

12 “(A) *BANK DEFINITIONS.*—*The following*
13 *definitions shall apply with respect to a bank:*

14 “(i) *ACCOUNT.*—*The term ‘account’—*

15 “(I) *means a formal banking or*
16 *business relationship established to*
17 *provide regular services, dealings, and*
18 *other financial transactions; and*

19 “(II) *includes a demand deposit,*
20 *savings deposit, or other transaction or*
21 *asset account and a credit account or*
22 *other extension of credit.*

23 “(ii) *CORRESPONDENT ACCOUNT.*—*The*
24 *term ‘correspondent account’ means an ac-*
25 *count established to receive deposits from*

1 *and make payments on behalf of a foreign*
2 *financial institution.*

3 “(iii) *PAYABLE-THROUGH ACCOUNT.*—

4 *The term ‘payable-through account’ means*
5 *an account, including a transaction account*
6 *(as defined in section 19(b)(1)(C) of the*
7 *Federal Reserve Act), opened at a deposi-*
8 *tory institution by a foreign financial insti-*
9 *tution by means of which the foreign finan-*
10 *cial institution permits its customers to en-*
11 *gage, either directly or through a sub-ac-*
12 *count, in banking activities usual in con-*
13 *nection with the business of banking in the*
14 *United States.*

15 “(B) *DEFINITIONS APPLICABLE TO INSTITU-*
16 *TIONS OTHER THAN BANKS.*—*With respect to*
17 *any financial institution other than a bank, the*
18 *Secretary shall define, by regulation, order, or*
19 *otherwise as permitted by law, the term ‘account’*
20 *and shall include within the meaning of such*
21 *term arrangements similar to payable-through*
22 *and correspondent accounts.*

23 “(2) *OTHER TERMS.*—*The Secretary may, by*
24 *regulation, order, or otherwise as permitted by law,*
25 *further define the terms in paragraph (1) and define*

1 *other terms for the purposes of this section, as the Sec-*
 2 *retary deems appropriate.”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 4 *subchapter II of chapter 53 of title 31, United States Code,*
 5 *is amended by inserting after the item relating to section*
 6 *5318 the following new item:*

“5318A. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.”.

7 **TITLE II—CURRENCY TRANS-**
 8 **ACTION REPORTING AMEND-**
 9 **MENTS AND RELATED IM-**
 10 **PROVEMENTS**

11 **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUS-**
 12 **PICIOUS ACTIVITIES.**

13 (a) *AMENDMENT RELATING TO CIVIL LIABILITY IMMUN-*
 14 *ITY FOR DISCLOSURES.*—*Section 5318(g)(3) of title 31,*
 15 *United States Code, is amended to read as follows:*

16 *“(3) LIABILITY FOR DISCLOSURES.—*

17 *“(A) IN GENERAL.—Any financial institu-*
 18 *tion that makes a voluntary disclosure of any*
 19 *possible violation of law or regulation to a gov-*
 20 *ernment agency or makes a disclosure pursuant*
 21 *to this subsection or any other authority, and*
 22 *any director, officer, employee, or agent of such*
 23 *institution who makes, or requires another to*
 24 *make any such disclosure, shall not be liable to*

1 *any person under any law or regulation of the*
2 *United States, any constitution, law, or regula-*
3 *tion of any State or political subdivision of any*
4 *State, or under any contract or other legally en-*
5 *forceable agreement (including any arbitration*
6 *agreement), for such disclosure or for any failure*
7 *to provide notice of such disclosure to the person*
8 *who is the subject of such disclosure or any other*
9 *person identified in the disclosure.*

10 “(B) *RULE OF CONSTRUCTION.*—Subpara-
11 *graph (A) shall not be construed as creating—*

12 “(i) *any inference that the term ‘per-*
13 *son’, as used in such subparagraph, may be*
14 *construed more broadly than its ordinary*
15 *usage so to include any government or*
16 *agency of government; or*

17 “(ii) *any immunity against, or other-*
18 *wise affecting, any civil or criminal action*
19 *brought by any government or agency of*
20 *government to enforce any constitution, law,*
21 *or regulation of such government or agen-*
22 *cy.”.*

23 (b) *PROHIBITION ON NOTIFICATION OF DISCLO-*
24 *SURES.*—Section 5318(g)(2) of title 31, United States Code,
25 *is amended to read as follows:*

1 “(2) *NOTIFICATION PROHIBITED.*—

2 “(A) *IN GENERAL.*—*If a financial institu-*
3 *tion or any director, officer, employee, or agent*
4 *of any financial institution, voluntarily or pur-*
5 *suant to this section or any other authority, re-*
6 *ports a suspicious transaction to a government*
7 *agency—*

8 “(i) *the financial institution, director,*
9 *officer, employee, or agent may not notify*
10 *any person involved in the transaction that*
11 *the transaction has been reported; and*

12 “(ii) *no officer or employee of the Fed-*
13 *eral Government or of any state, local, trib-*
14 *al, or territorial government within the*
15 *United States, who has any knowledge that*
16 *such report was made may disclose to any*
17 *person involved in the transaction that the*
18 *transaction has been reported other than as*
19 *necessary to fulfill the official duties of such*
20 *officer or employee.*

21 “(B) *DISCLOSURES IN CERTAIN EMPLOY-*
22 *MENT REFERENCES.*—*Notwithstanding the ap-*
23 *plication of subparagraph (A) in any other con-*
24 *text, subparagraph (A) shall not be construed as*
25 *prohibiting any financial institution, or any di-*

1 *rector, officer, employee, or agent of such institu-*
2 *tion, from including, in a written employment*
3 *reference that is provided in accordance with sec-*
4 *tion 18(v) of the Federal Deposit Insurance Act*
5 *in response to a request from another financial*
6 *institution or a written termination notice or*
7 *employment reference that is provided in accord-*
8 *ance with the rules of the self-regulatory organi-*
9 *zations registered with the Securities and Ex-*
10 *change Commission, information that was in-*
11 *cluded in a report to which subparagraph (A)*
12 *applies, but such written employment reference*
13 *may not disclose that such information was also*
14 *included in any such report or that such report*
15 *was made.”.*

16 **SEC. 202. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
17 **TARGETING ORDERS AND CERTAIN RECORD-**
18 **KEEPING REQUIREMENTS, AND LENGTH-**
19 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**
20 **TARGETING ORDERS.**

21 *(a) CIVIL PENALTY FOR VIOLATION OF TARGETING*
22 *ORDER.—Section 5321(a)(1) of title 31, United States*
23 *Code, is amended—*

24 *(1) by inserting “or order issued” after “sub-*
25 *chapter or a regulation prescribed”; and*

1 (2) by inserting “, or willfully violating a regu-
2 lation prescribed under section 21 of the Federal De-
3 posit Insurance Act or section 123 of Public Law 91-
4 508,” after “section 5314 and 5315”).

5 (b) *CRIMINAL PENALTIES FOR VIOLATION OF TAR-*
6 *GETING ORDER.*—Section 5322 of title 31, United States
7 *Code, is amended—*

8 (1) in subsection (a)—

9 (A) by inserting “or order issued” after
10 “willfully violating this subchapter or a regula-
11 tion prescribed”; and

12 (B) by inserting “, or willfully violating a
13 regulation prescribed under section 21 of the
14 Federal Deposit Insurance Act or section 123 of
15 Public Law 91-508,” after “under section 5315
16 or 5324”);

17 (2) in subsection (b)—

18 (A) by inserting “or order issued” after
19 “willfully violating this subchapter or a regula-
20 tion prescribed”; and

21 (B) by inserting “or willfully violating a
22 regulation prescribed under section 21 of the
23 Federal Deposit Insurance Act or section 123 of
24 Public Law 91-508,” after “under section 5315
25 or 5324,”).

1 (c) *STRUCTURING TRANSACTIONS TO EVADE TAR-*
2 *GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-*
3 *MENTS.*—Section 5324(a) of title 31, United States Code,
4 *is amended—*

5 (1) *by inserting a comma after “shall”;*

6 (2) *by striking “section—” and inserting “sec-*
7 *tion, the reporting or recordkeeping requirements im-*
8 *posed by any order issued under section 5326, or the*
9 *recordkeeping requirements imposed by any regula-*
10 *tion prescribed under section 21 of the Federal De-*
11 *posit Insurance Act or section 123 of Public Law 91-*
12 *508—”;*

13 (3) *in paragraph (1) by inserting “, to file a re-*
14 *port or to maintain a record required by an order*
15 *issued under section 5326, or to maintain a record re-*
16 *quired pursuant to any regulation prescribed under*
17 *section 21 of the Federal Deposit Insurance Act or*
18 *section 123 of Public Law 91–508” after “regulation*
19 *prescribed under any such section”;* and

20 (4) *in paragraph (2) by inserting “, to file a re-*
21 *port or to maintain a record required by any order*
22 *issued under section 5326, or to maintain a record re-*
23 *quired pursuant to any regulation prescribed under*
24 *section 5326, or to maintain a record required pursu-*
25 *ant to any regulation prescribed under section 21 of*

1 concerning the possible involvement of such institu-
2 tion-affiliated party in potentially unlawful activity.

3 “(2) *DEFINITION.*—For purposes of this sub-
4 section, the term ‘insured depository institution’ in-
5 cludes any uninsured branch or agency of a foreign
6 bank.”.

7 **SEC. 204. BANK SECRECY ACT ADVISORY GROUP.**

8 Section 1564 of the Annunzio-Wylie Anti-Money
9 Laundering Act (31 U.S.C. 5311 note) is amended—

10 (1) in subsection (a), by inserting “, of non-
11 governmental organizations advocating financial pri-
12 vacy,” after “Drug Control Policy”; and

13 (2) in subsection (c), by inserting “, other than
14 subsections (a) and (d) of such Act which shall
15 apply” before the period at the end.

16 **SEC. 205. AGENCY REPORTS ON RECONCILING PENALTY**
17 **AMOUNTS.**

18 Before the end of the 1-year period beginning on the
19 date of the enactment of this Act, the Secretary of the Treas-
20 ury and the Federal banking agencies (as defined in section
21 3 of the Federal Deposit Insurance Act) shall each submit
22 their respective reports to the Congress containing rec-
23 ommendations on possible legislation to conform the pen-
24 alties imposed on depository institutions (as defined in sec-
25 tion 3 of the Federal Deposit Insurance Act) for violations

1 of subchapter II of chapter 53 of title 31, United States
2 Code, to the penalties imposed on such institutions under
3 section 8 of the Federal Deposit Insurance Act.

4 **TITLE III—ANTICORRUPTION**
5 **MEASURES**

6 **SEC. 301. CORRUPTION OF FOREIGN GOVERNMENTS AND**
7 **RULING ELITES.**

8 (a) *SENSE OF THE CONGRESS.*—It is the sense of the
9 Congress that, in deliberations between the United States
10 Government and any other country on money laundering
11 and corruption issues, the United States Government
12 should—

13 (1) *emphasize an approach that addresses not*
14 *only the laundering of the proceeds of traditional*
15 *criminal activity but also the increasingly endemic*
16 *problem of governmental corruption and the corrup-*
17 *tion of ruling elites;*

18 (2) *encourage the enactment and enforcement of*
19 *laws in such country to prevent money laundering*
20 *and systemic corruption;*

21 (3) *make clear that the United States will take*
22 *all steps necessary to identify the proceeds of foreign*
23 *government corruption which have been deposited in*
24 *United States financial institutions and return such*

1 proceeds to the citizens of the country to whom such
2 assets belong; and

3 (4) advance policies and measures to promote
4 good government and to prevent and reduce corrup-
5 tion and money laundering, including through in-
6 structions to the United States Executive Director of
7 each international financial institution (as defined in
8 section 1701(c) of the International Financial Insti-
9 tutions Act) to advocate such policies as a systematic
10 element of economic reform programs and advice to
11 member governments.

12 (b) *GUIDANCE TO FINANCIAL INSTITUTIONS OPER-*
13 *ATING IN THE UNITED STATES ON TRANSACTIONS BY OR*
14 *ON BEHALF OF CORRUPT FOREIGN OFFICIALS.*—*The Sec-*
15 *retary of the Treasury, in consultation with the Attorney*
16 *General of the United States and the Federal functional reg-*
17 *ulators (as defined in section 509(2) of the Gramm-Leach-*
18 *Bliley Act), shall, before the end of the 180-day period be-*
19 *ginning on the date of the enactment of this Act, issue guid-*
20 *ance to financial institutions operating in the United*
21 *States on appropriate practices and procedures to reduce*
22 *the risk that such institutions may become depositories for,*
23 *or transmitters of, the proceeds of corruption by or on behalf*
24 *of senior foreign officials and their close associates.*

1 **SEC. 302. SUPPORT FOR THE FINANCIAL ACTION TASK**
2 **FORCE ON MONEY LAUNDERING.**

3 *It is the sense of the Congress that—*

4 *(1) the United States should continue to actively*
5 *and publicly support the objectives of the Financial*
6 *Action Task Force on Money Laundering (hereafter*
7 *in this section referred to as the “FATF”) with re-*
8 *gard to combating international money laundering;*

9 *(2) the FATF should identify noncooperative ju-*
10 *risdictions in as expeditious a manner as possible*
11 *and publicly release a list directly naming those ju-*
12 *risdictions identified;*

13 *(3) the United States should support the public*
14 *release of the list naming noncooperative jurisdictions*
15 *identified by the FATF;*

16 *(4) the United States should encourage the adop-*
17 *tion of the necessary international action to encour-*
18 *age compliance by the identified noncooperative juris-*
19 *dictions; and*

20 *(5) the United States should take the necessary*
21 *countermeasures to protect the United States economy*
22 *against money of unlawful origin and encourage*
23 *other nations to do the same.*

Amend the title so as to read: “A bill to combat international money laundering and protect the United States financial system, and for other purposes.”.

Union Calendar No. 410

106TH CONGRESS
2D SESSION

H. R. 3886

[Report No. 106-728]

A BILL

To combat international money laundering, and for
other purposes.

JULY 11, 2000

Reported with amendments, committed to the Committee
of the Whole House on the State of the Union, and or-
dered to be printed