

106TH CONGRESS
2D SESSION

S. 2972

To combat international money laundering and protect the United States financial system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. KERRY (for himself, Mr. GRASSLEY, Mr. SARBANES, Mr. LEVIN, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To combat international money laundering and protect the United States financial system, and for other purposes.

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

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

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

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 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 international 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 recordkeeping requirements, and lengthening effective period of geographic targeting orders.

Sec. 203. Authorization to include suspicions of illegal activity in written employment 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.

1 SEC. 2. FINDINGS AND PURPOSES.

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

3 (1) Money laundering, estimated by the Inter-
4 national Monetary Fund to amount to between 2
5 and 5 percent of global gross domestic product
6 which is at least \$600,000,000,000 annually, pro-
7 vides the financial fuel that permits transnational
8 criminal enterprises to conduct and expand their op-
9 erations to the detriment of the safety and security
10 of American citizens.

11 (2) Money launderers subvert legitimate finan-
12 cial mechanisms and banking relationships by using
13 them as protective covering for the movement of
14 criminal proceeds and, by so doing, can undermine
15 the integrity of our financial institutions and of the

1 global financial and trading systems upon which our
2 prosperity and growth depend.

3 (3) Money launderers rely upon the existence
4 and use of certain jurisdictions outside the United
5 States that offer bank secrecy and special tax or
6 regulatory advantages to nonresidents, and often
7 complement those advantages with weak financial
8 supervisory and regulatory regimes.

9 (4) Certain kinds of transactions involving such
10 offshore jurisdictions—for example, those trans-
11 actions specifically designed to offer anonymity or
12 the avoidance of regulatory scrutiny—make it dif-
13 ficult for law enforcement officials and regulators to
14 follow the trail of money earned by criminals and or-
15 ganized international criminal enterprises that un-
16 dermine United States national interests and traffic
17 in human misery, whether they are narcotics dealers,
18 terrorists, arms smugglers, traffickers in human
19 beings, or those whose frauds prey upon law abiding
20 citizens.

21 (5) Certain banking relationships between fi-
22 nancial institutions in the United States and finan-
23 cial institutions located in such offshore jurisdic-
24 tions, such as correspondent and payable-through
25 accounts, are particularly vulnerable to abuse be-

1 cause of the difficulty in obtaining accurate informa-
2 tion about the beneficial owners whose funds pass
3 through such accounts.

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

8 (7) The Basle Committee on Banking Regula-
9 tion and Supervisory Practices and the Financial
10 Action Task Force on Money Laundering, both of
11 which the United States is a member, have each
12 adopted international anti-money laundering prin-
13 ciples and recommendations.

14 (b) PURPOSES.—The purposes of this Act are as fol-
15 lows:

16 (1) To ensure that banking transactions and fi-
17 nancial relationships, the conduct of such trans-
18 actions and relationships, or both, do not contravene
19 the purposes of subchapter II of chapter 53 of title
20 31, United States Code, section 21 of the Federal
21 Deposit Insurance Act, and chapter 2 of title I of
22 Public Law 91–508, or facilitate the evasion of any
23 such provision, to ensure that the purposes of such
24 subchapter II continue to be fulfilled, and to guard

1 against international money laundering and other fi-
2 nancial crimes.

3 (2) To provide a clear national mandate for
4 subjecting to special scrutiny those foreign jurisdic-
5 tions, financial institutions operating outside the
6 United States, and classes of international trans-
7 actions that pose particular, identifiable opportuni-
8 ties for money laundering.

9 (3) To provide the Secretary of the Treasury
10 with broad discretionary authority to take certain
11 measures tailored to the particular money laun-
12 dering problems presented by specific foreign juris-
13 dictions, financial institutions operating outside the
14 United States, and classes of international trans-
15 actions.

16 (4) To provide domestic financial institutions
17 with guidance on particular foreign jurisdictions, fi-
18 nancial institutions operating outside the United
19 States, and classes of international transactions that
20 are of primary money laundering concern to the
21 United States government.

22 (5) To clarify the terms of the safe harbor from
23 civil liability for filing suspicious activity reports.

24 (6) To strengthen the Secretary's authority to
25 issue and administer geographic targeting orders,

and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91–508 and subchapters II and III of chapter 53 of title 31, United States Code, may result in criminal and civil penalties.

(7) To strengthen the ability of financial institutions to maintain the integrity of their employee population.

(8) To strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

TITLE I—INTERNATIONAL COUNTER-MONEY LAUNDER- ING MEASURES

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

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

1 **“§ 5318A. Special measures for jurisdictions, financial**
 2 **institutions, or international transactions**
 3 **of primary money laundering concern**

4 “(a) INTERNATIONAL COUNTER-MONEY LAUN-
 5 DERING REQUIREMENTS.—

6 “(1) IN GENERAL.—The Secretary may require
 7 domestic financial institutions and domestic financial
 8 agencies to take 1 or more of the special measures
 9 described in subsection (b) if the Secretary finds
 10 that reasonable grounds exist for concluding that a
 11 jurisdiction outside the United States, 1 or more fi-
 12 nancial institutions operating outside the United
 13 States, or 1 or more classes of transactions within,
 14 or involving, a jurisdiction outside the United States
 15 is of primary money laundering concern, in accord-
 16 ance with subsection (c).

17 “(2) FORM OF REQUIREMENT.—The special
 18 measures described in subsection (b) may be im-
 19 posed by regulation, order, or otherwise as permitted
 20 by law, and in such sequence or combination, as the
 21 Secretary shall determine.

22 “(3) PROCESS FOR SELECTING SPECIAL MEAS-
 23 URES.—

24 “(A) CONSULTATION.—In selecting which
 25 special measure or measures to take under this
 26 subsection, the Secretary shall consult with the

1 Chairman of the Board of Governors of the
2 Federal Reserve System and, in the Secretary's
3 sole discretion, such other agencies and inter-
4 ested parties as the Secretary may find to be
5 appropriate.

6 “(B) FACTORS.—The Secretary also shall
7 consider—

8 “(i) whether similar action has been
9 or is being taken by other nations or multi-
10 lateral groups;

11 “(ii) whether the imposition of any
12 particular special measure would create a
13 significant competitive disadvantage, in-
14 cluding any undue cost or burden associ-
15 ated with compliance, for financial institu-
16 tions organized or licensed in the United
17 States; and

18 “(iii) the extent to which the action
19 would have a significant adverse systemic
20 impact on the international payment, clear-
21 ance and settlement system, or on legiti-
22 mate business activities involving the par-
23 ticular jurisdiction, institution, or class of
24 transactions.

1 “(4) NO LIMITATION ON OTHER AUTHORITY.—

2 This section shall not be construed as superseding or
3 otherwise restricting any other authority granted to
4 the Secretary, or to any other agency, by this sub-
5 chapter or otherwise.

6 “(b) SPECIAL MEASURES.—The special measures re-
7 ferred to in subsection (a), with respect to a jurisdiction
8 outside the United States, financial institution operating
9 outside the United States, or class of transaction within,
10 or involving, a jurisdiction outside the United States, are
11 as follows:

12 “(1) RECORDKEEPING AND REPORTING OF
13 CERTAIN FINANCIAL TRANSACTIONS.—

14 “(A) IN GENERAL.—The Secretary may re-
15 quire any domestic financial institution or do-
16 mestic financial agency to maintain records, file
17 reports, or both, concerning the aggregate
18 amount of transactions, or concerning each
19 transaction, with respect to a jurisdiction out-
20 side the United States, 1 or more financial in-
21 stitutions operating outside the United States,
22 or 1 or more classes of transactions within, or
23 involving, a jurisdiction outside the United
24 States, if the Secretary finds any such jurisdic-

tion, institution, or class of transactions to be of primary money laundering concern.

“(B) FORM OF RECORDS AND REPORTS.—

Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including—

“(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

“(ii) the legal capacity in which a participant in any transaction is acting;

“(iii) the identity of the beneficial owner of the funds involved in any transaction; and

“(iv) a description of any transaction.

“(2) INFORMATION RELATING TO BENEFICIAL

OWNERSHIP.—In addition to any other requirement under any other law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial

1 ownership of any account opened or maintained in
2 the United States by a foreign person (other than
3 a foreign entity whose shares are subject to public
4 reporting requirements or are listed and traded on
5 a regulated exchange or trading market), or a rep-
6 resentative of such a foreign person, that involves
7 a jurisdiction outside the United States, 1 or more
8 financial institutions operating outside the United
9 States, or 1 or more classes of transactions within,
10 or involving, a jurisdiction outside the United States,
11 if the Secretary finds any such jurisdiction, institu-
12 tion, or transaction to be of primary money laun-
13 dering concern.

14 “(3) INFORMATION RELATING TO CERTAIN PAY-
15 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
16 a jurisdiction outside the United States, 1 or more
17 financial institutions operating outside the United
18 States, or 1 or more classes of transactions within,
19 or involving, a jurisdiction outside the United States
20 to be of primary money laundering concern, the Sec-
21 retary may require any domestic financial institution
22 or domestic financial agency that opens or maintains
23 a payable-through account in the United States for
24 a foreign financial institution involving any such ju-
25 risdiction or any such financial institution operating

1 outside the United States, or a payable-through ac-
2 count through which any such transaction may be
3 conducted, as a condition of opening or maintaining
4 such account, to—

5 “(A) identify each customer (and rep-
6 resentative of such customer) of such financial
7 institution who is permitted to use, or whose
8 transactions are routed through, such payable-
9 through account; and

10 “(B) obtain, with respect to each such cus-
11 tomer (and each such representative), the same
12 information that the depository institution ob-
13 tains in the ordinary course of business with re-
14 spect to its customers residing in the United
15 States.

16 “(4) INFORMATION RELATING TO CERTAIN COR-
17 RESPONDENT ACCOUNTS.—If the Secretary finds a
18 jurisdiction outside the United States, 1 or more fi-
19 nancial institutions operating outside the United
20 States, or 1 or more classes of transactions within,
21 or involving, a jurisdiction outside the United States
22 to be of primary money laundering concern, the Sec-
23 retary may require any domestic financial institution
24 or domestic financial agency that opens or maintains
25 a correspondent account in the United States for a

1 foreign financial institution involving any such juris-
 2 diction or any such financial institution operating
 3 outside the United States, or a correspondent ac-
 4 count through which any such transaction may be
 5 conducted, as a condition of opening or maintaining
 6 such account, to—

7 “(A) identify each customer (and rep-
 8 resentative of such customer) of any such finan-
 9 cial institution who is permitted to use, or
 10 whose transactions are routed through, such
 11 correspondent account; and

12 “(B) obtain, with respect to each such cus-
 13 tomer (and each such representative), the same
 14 information that the depository institution ob-
 15 tains in the ordinary course of business with re-
 16 spect to its customers residing in the United
 17 States.

18 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
 19 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
 20 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
 21 finds a jurisdiction outside the United States, 1 or
 22 more financial institutions operating outside the
 23 United States, or 1 or more classes of transactions
 24 within, or involving, a jurisdiction outside the United
 25 States to be of primary money laundering concern,

1 the Secretary, in consultation with the Secretary of
2 State, the Attorney General, and the Chairman of
3 the Board of Governors of the Federal Reserve Sys-
4 tem, may prohibit, or impose conditions upon, the
5 opening or maintaining in the United States of a
6 correspondent account or payable-through account
7 by any domestic financial institution or domestic fi-
8 nancial agency for or on behalf of a foreign banking
9 institution if such correspondent account or payable-
10 through account involves any such jurisdiction or in-
11 stitution, or if any such transaction may be con-
12 ducted through such correspondent account or pay-
13 able-through account.

14 “(c) CONSULTATIONS AND INFORMATION TO BE
15 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
16 OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUN-
17 DERING CONCERN.—

18 “(1) IN GENERAL.—In making a finding that
19 reasonable grounds exist for concluding that a juris-
20 diction outside the United States, 1 or more finan-
21 cial institutions operating outside the United States,
22 or 1 or more classes of transactions within, or in-
23 volving, a jurisdiction outside the United States is of
24 primary money laundering concern so as to author-
25 ize the Secretary to invoke 1 or more of the special

1 measures of subsection (b), the Secretary shall con-
2 sult with the Secretary of State, the Attorney Gen-
3 eral, the Secretary of Commerce, and the United
4 States Trade Representative.

5 “(2) INFORMATION.—The Secretary also shall
6 consider such information as the Secretary considers
7 to be relevant, including the following potentially rel-
8 evant factors:

9 “(A) In the case of a particular
10 jurisdiction—

11 “(i) the extent to which that jurisdic-
12 tion or financial institutions operating
13 therein offer bank secrecy or special tax or
14 regulatory advantages to nonresidents or
15 nondomiciliaries of such jurisdiction;

16 “(ii) the substance and quality of ad-
17 ministration of that jurisdiction’s bank su-
18 pervisory and counter-money laundering
19 laws;

20 “(iii) the relationship between the vol-
21 ume of financial transactions occurring in
22 that jurisdiction and the size of the juris-
23 diction’s economy;

24 “(iv) the extent to which that jurisdic-
25 tion is characterized as a tax haven or off-

1 shore banking or secrecy haven by credible
2 international organizations or multilateral
3 expert groups;

4 “(v) whether the United States has a
5 mutual legal assistance treaty with that ju-
6 risdiction, and the experience of United
7 States law enforcement officials, regulatory
8 officials, and tax administrators in obtain-
9 ing information about transactions origi-
10 nating in or routed through or to such ju-
11 risdiction; and

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

15 “(B) In the case of a decision to apply 1
16 or more of the special measures described in
17 subsection (b) only to a financial institution or
18 institutions, or to a transaction or class of
19 transactions, or to both, within, or involving, a
20 particular jurisdiction—

21 “(i) the extent to which such financial
22 institutions or transactions are used to fa-
23 cilitate or promote money laundering in or
24 through the jurisdiction;

1 “(ii) the extent to which such institu-
 2 tions or transactions are used for legiti-
 3 mate business purposes in such jurisdic-
 4 tion; and

5 “(iii) the extent to which such action
 6 is sufficient to ensure, with respect to
 7 transactions involving such jurisdiction and
 8 institutions operating in such jurisdiction,
 9 that the purposes of this subchapter con-
 10 tinue to be fulfilled, and to guard against
 11 international money laundering and other
 12 financial crimes.

13 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
 14 VOKED BY THE SECRETARY.—Within 10 days after the
 15 date of any action taken by the Secretary under subsection
 16 (a)(1), the Secretary shall notify, in writing, the Com-
 17 mittee on Banking and Financial Services of the House
 18 of Representatives and the Committee on Banking, Hous-
 19 ing, and Urban Affairs of the Senate of any such action.

20 “(e) DEFINITIONS.—Notwithstanding any other pro-
 21 vision of this subchapter, for purposes of this section, the
 22 following definitions shall apply:

23 “(1) DEFINED TERMS.—

24 “(A) BANK DEFINITIONS.—The following
 25 definitions shall apply with respect to a bank:

1 “(i) ACCOUNT.—The term ‘account’—

2 “(I) means a formal banking or
3 business relationship established to
4 provide regular services, dealings, and
5 other financial transactions; and

6 “(II) includes a demand deposit,
7 savings deposit, or other transaction
8 or asset account and a credit account
9 or other extension of credit.

10 “(ii) CORRESPONDENT ACCOUNT.—

11 The term ‘correspondent account’ means
12 an account established to receive deposits
13 from and make payments on behalf of a
14 foreign financial institution.

15 “(iii) PAYABLE-THROUGH ACCOUNT.—

16 The term ‘payable-through account’ means
17 an account, including a transaction ac-
18 count (as defined in section 19(b)(1)(C) of
19 the Federal Reserve Act), opened at a de-
20 pository institution by a foreign financial
21 institution by means of which the foreign
22 financial institution permits its customers
23 to engage, either directly or through a sub-
24 account, in banking activities usual in con-

1 nection with the business of banking in the
2 United States.

3 “(B) DEFINITIONS APPLICABLE TO INSTI-
4 TUTIONS OTHER THAN BANKS.—With respect
5 to any financial institution other than a bank,
6 the Secretary shall define, by regulation, order,
7 or otherwise as permitted by law, the term ‘ac-
8 count’ and shall include within the meaning of
9 such term arrangements similar to payable-
10 through and correspondent accounts.

11 “(2) OTHER TERMS.—The Secretary may, by
12 regulation, order, or otherwise as permitted by law,
13 further define the terms in paragraph (1) and define
14 other terms for the purposes of this section, as the
15 Secretary deems appropriate.”.

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

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

1 **TITLE II—CURRENCY TRANS-**
 2 **ACTION REPORTING AMEND-**
 3 **MENTS AND RELATED**
 4 **IMPROVEMENTS**

5 **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUS-**
 6 **PICIOUS ACTIVITIES.**

7 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
 8 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
 9 31, United States Code, is amended to read as follows:

10 “(3) LIABILITY FOR DISCLOSURES.—

11 “(A) IN GENERAL.—Any financial institu-
 12 tion that makes a voluntary disclosure of any
 13 possible violation of law or regulation to a gov-
 14 ernment agency or makes a disclosure pursuant
 15 to this subsection or any other authority, and
 16 any director, officer, employee, or agent of such
 17 institution who makes, or requires another to
 18 make any such disclosure, shall not be liable to
 19 any person under any law or regulation of the
 20 United States, any constitution, law, or regula-
 21 tion of any State or political subdivision of any
 22 State, or under any contract or other legally en-
 23 forceable agreement (including any arbitration
 24 agreement), for such disclosure or for any fail-
 25 ure to provide notice of such disclosure to the

1 person who is the subject of such disclosure or
 2 any other person identified in the disclosure.

3 “(B) RULE OF CONSTRUCTION.—Subpara-
 4 graph (A) shall not be construed as creating—

5 “(i) any inference that the term ‘per-
 6 son’, as used in such subparagraph, may
 7 be construed more broadly than its ordi-
 8 nary usage so to include any government
 9 or agency of government; or

10 “(ii) any immunity against, or other-
 11 wise affecting, any civil or criminal action
 12 brought by any government or agency of
 13 government to enforce any constitution,
 14 law, or regulation of such government or
 15 agency.”.

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

19 “(2) NOTIFICATION PROHIBITED.—

20 “(A) IN GENERAL.—If a financial institu-
 21 tion or any director, officer, employee, or agent
 22 of any financial institution, voluntarily or pur-
 23 suant to this section or any other authority, re-
 24 ports a suspicious transaction to a government
 25 agency—

1 “(i) the financial institution, director,
2 officer, employee, or agent may not notify
3 any person involved in the transaction that
4 the transaction has been reported; and

5 “(ii) no officer or employee of the
6 Federal Government or of any state, local,
7 tribal, or territorial government within the
8 United States, who has any knowledge that
9 such report was made may disclose to any
10 person involved in the transaction that the
11 transaction has been reported other than
12 as necessary to fulfill the official duties of
13 such officer or employee.

14 “(B) DISCLOSURES IN CERTAIN EMPLOY-
15 MENT REFERENCES.—Notwithstanding the ap-
16 plication of subparagraph (A) in any other con-
17 text, subparagraph (A) shall not be construed
18 as prohibiting any financial institution, or any
19 director, officer, employee, or agent of such in-
20 stitution, from including, in a written employ-
21 ment reference that is provided in accordance
22 with section 18(v) of the Federal Deposit Insur-
23 ance Act in response to a request from another
24 financial institution or a written termination
25 notice or employment reference that is provided

in accordance with the rules of the self-regulatory organizations registered with the Securities and Exchange Commission, information that was included in a report to which subparagraph (A) applies, but such written employment reference may not disclose that such information was also included in any such report or that such report was made.”.

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

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

(1) by inserting “or order issued” after “subchapter or a regulation prescribed”; and

(2) by inserting “, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “section 5314 and 5315”).

(b) CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER.—Section 5322 of title 31, United States Code, is amended—

1 (1) in subsection (a)—

2 (A) by inserting “or order issued” after
3 “willfully violating this subchapter or a regula-
4 tion prescribed”; and

5 (B) by inserting “, or willfully violating a
6 regulation prescribed under section 21 of the
7 Federal Deposit Insurance Act or section 123
8 of Public Law 91–508,” after “under section
9 5315 or 5324);” and

10 (2) in subsection (b)—

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

14 (B) by inserting “or willfully violating a
15 regulation prescribed under section 21 of the
16 Federal Deposit Insurance Act or section 123
17 of Public Law 91–508,” after “under section
18 5315 or 5324),”.

19 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
20 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
21 MENTS.—Section 5324(a) of title 31, United States Code,
22 is amended—

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

24 (2) by striking “section—” and inserting “sec-
25 tion, the reporting or recordkeeping requirements

1 imposed by any order issued under section 5326, or
2 the recordkeeping requirements imposed by any reg-
3 ulation prescribed under section 21 of the Federal
4 Deposit Insurance Act or section 123 of Public Law
5 91-508—”;

6 (3) in paragraph (1) by inserting “, to file a re-
7 port or to maintain a record required by an order
8 issued under section 5326, or to maintain a record
9 required pursuant to any regulation prescribed
10 under section 21 of the Federal Deposit Insurance
11 Act or section 123 of Public Law 91-508” after
12 “regulation prescribed under any such section”; and

13 (4) in paragraph (2) by inserting “, to file a re-
14 port or to maintain a record required by any order
15 issued under section 5326, or to maintain a record
16 required pursuant to any regulation prescribed
17 under section 5326, or to maintain a record required
18 pursuant to any regulation prescribed under section
19 21 of the Federal Deposit Insurance Act or section
20 123 of Public Law 91-508,” after “regulation pre-
21 scribed under any such section”.

22 (d) LENGTHENING EFFECTIVE PERIOD OF GEO-
23 GRAPHIC TARGETING ORDERS.—Section 5326(d) of title
24 31, United States Code, is amended by striking “60” after
25 “shall be effective for more than” and inserting “180”.

1 **SEC. 203. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**
 2 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**
 3 **REFERENCES.**

4 Section 18 of the Federal Deposit Insurance Act (12
 5 U.S.C. 1828) is amended by adding at the end the fol-
 6 lowing new paragraph:

7 “(v) WRITTEN EMPLOYMENT REFERENCES MAY
 8 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-
 9 TIVITY.—

10 “(1) IN GENERAL.—Notwithstanding any other
 11 provision of law, any insured depository institution,
 12 and any director, officer, employee, or agent of such
 13 institution, may disclose in any written employment
 14 reference relating to a current or former institution-
 15 affiliated party of such institution which is provided
 16 to another insured depository institution in response
 17 to a request from such other institution, information
 18 concerning the possible involvement of such institu-
 19 tion-affiliated party in potentially unlawful activity.

20 “(2) DEFINITION.—For purposes of this sub-
 21 section, the term ‘insured depository institution’ in-
 22 cludes any uninsured branch or agency of a foreign
 23 bank.”.

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

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

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

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

7 **SEC. 205. AGENCY REPORTS ON RECONCILING PENALTY**
 8 **AMOUNTS.**

9 Before the end of the 1-year period beginning on the
 10 date of the enactment of this Act, the Secretary of the
 11 Treasury and the Federal banking agencies (as defined in
 12 section 3 of the Federal Deposit Insurance Act) shall each
 13 submit their respective reports to the Congress containing
 14 recommendations on possible legislation to conform the
 15 penalties imposed on depository institutions (as defined in
 16 section 3 of the Federal Deposit Insurance Act) for viola-
 17 tions of subchapter II of chapter 53 of title 31, United
 18 States Code, to the penalties imposed on such institutions
 19 under section 8 of the Federal Deposit Insurance Act.

20 **TITLE III—ANTICORRUPTION**
 21 **MEASURES**

22 **SEC. 301. CORRUPTION OF FOREIGN GOVERNMENTS AND**
 23 **RULING ELITES.**

24 (a) SENSE OF THE CONGRESS.—It is the sense of the
 25 Congress that, in deliberations between the United States

1 Government and any other country on money laundering
2 and corruption issues, the United States Government
3 should—

4 (1) emphasize an approach that addresses not
5 only the laundering of the proceeds of traditional
6 criminal activity but also the increasingly endemic
7 problem of governmental corruption and the corrup-
8 tion of ruling elites;

9 (2) encourage the enactment and enforcement
10 of laws in such country to prevent money laundering
11 and systemic corruption;

12 (3) make clear that the United States will take
13 all steps necessary to identify the proceeds of foreign
14 government corruption which have been deposited in
15 United States financial institutions and return such
16 proceeds to the citizens of the country to whom such
17 assets belong; and

18 (4) advance policies and measures to promote
19 good government and to prevent and reduce corrup-
20 tion and money laundering, including through in-
21 structions to the United States Executive Director of
22 each international financial institution (as defined in
23 section 1701(c) of the International Financial Insti-
24 tutions Act) to advocate such policies as a system-

1 atic element of economic reform programs and ad-
 2 vice to member governments.

3 (b) GUIDANCE TO FINANCIAL INSTITUTIONS OPER-
 4 ATING IN THE UNITED STATES ON TRANSACTIONS BY OR
 5 ON BEHALF OF CORRUPT FOREIGN OFFICIALS.—The
 6 Secretary of the Treasury, in consultation with the Attor-
 7 ney General of the United States and the Federal func-
 8 tional regulators (as defined in section 509(2) of the
 9 Gramm-Leach-Bliley Act), shall, before the end of the
 10 180-day period beginning on the date of the enactment
 11 of this Act, issue guidance to financial institutions oper-
 12 ating in the United States on appropriate practices and
 13 procedures to reduce the risk that such institutions may
 14 become depositories for, or transmitters of, the proceeds
 15 of corruption by or on behalf of senior foreign officials
 16 and their close associates.

17 **SEC. 302. SUPPORT FOR THE FINANCIAL ACTION TASK**
 18 **FORCE ON MONEY LAUNDERING.**

19 It is the sense of the Congress that—

20 (1) the United States should continue to ac-
 21 tively and publicly support the objectives of the Fi-
 22 nancial Action Task Force on Money Laundering
 23 (hereafter in this section referred to as the
 24 “FATF”) with regard to combating international
 25 money laundering;

1 (2) the FATF should identify noncooperative
2 jurisdictions in as expeditious a manner as possible
3 and publicly release a list directly naming those ju-
4 risdictions identified;

5 (3) the United States should support the public
6 release of the list naming noncooperative jurisdic-
7 tions identified by the FATF;

8 (4) the United States should encourage the
9 adoption of the necessary international action to en-
10 courage compliance by the identified noncooperative
11 jurisdictions; and

12 (5) the United States should take the necessary
13 countermeasures to protect the United States econ-
14 omy against money of unlawful origin and encourage
15 other nations to do the same.

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