

115TH CONGRESS
1ST SESSION

H. R. 4373

To modernize and strengthen the United States anti-money laundering and counter-terrorism financing regime.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2017

Mr. ROYCE of California (for himself and Mr. GONZALEZ of Texas) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To modernize and strengthen the United States anti-money laundering and counter-terrorism financing regime.

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 “Anti-Money Laun-
5 dering and Counter-Terrorism Financing Modernization
6 Act” or the “AML and CTF Modernization Act”.

7 **SEC. 2. MODIFICATION OF CURRENCY TRANSACTION RE-**
8 **PORTING THRESHOLD.**

9 (a) SUBPART C OF SECTION 1010.—

1 (1) INITIAL ADJUSTMENT.—Not later than 1
2 year after the date of enactment of this Act, the
3 Secretary of the Treasury shall adjust the dollar
4 amounts under subpart C of part 1010 of title 31,
5 Code of Federal Regulations, to an amount that is
6 rounded to the nearest multiple of \$1,000 and—

7 (A) is not less than \$30,000; and

8 (B) is not more than the amount that re-
9 flects the change in the Consumer Price Index
10 for All Urban Consumers published by the Bu-
11 reau of Labor Statistics since the date on which
12 such dollar amounts were last established or ad-
13 justed, as applicable.

14 (2) PERIODIC ADJUSTMENTS.—

15 (A) IN GENERAL.—At the end of each 5-
16 year period beginning on the date that the Sec-
17 retary makes the adjustment required under
18 paragraph (1), the Secretary shall readjust such
19 dollar amounts, rounded to the nearest multiple
20 of \$1,000, to reflect the change in the Con-
21 sumer Price Index for All Urban Consumers
22 published by the Bureau of Labor Statistics
23 since the date on which such dollar amounts
24 were last adjusted.

1 (B) ALTERNATIVE ADJUSTMENT AUTHOR-
2 ITY.—If, at the time of an adjustment described
3 under subparagraph (A), the Secretary, after
4 consultation with law enforcement agencies and
5 the Bank Secrecy Act Advisory Group, deter-
6 mines that such adjustment would significantly
7 frustrate the ability of law enforcement and fi-
8 nancial institutions to detect and prevent money
9 laundering and terrorism financing, the Sec-
10 retary may make such adjustment using a met-
11 ric other than the Consumer Price Index for All
12 Urban Consumers published by the Bureau of
13 Labor Statistics or choose to not make such ad-
14 justment.

15 (b) REPORTS ON EXPORTING AND IMPORTING MONE-
16 TARY INSTRUMENTS.—Section 5316 of title 31, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(e) ADJUSTMENT FOR INFLATION.—

20 “(1) INITIAL ADJUSTMENT.—Not later than 1
21 year after the date of enactment of this subsection,
22 the Secretary of the Treasury shall adjust the dollar
23 amounts under subsection (a), to an amount that is
24 rounded to the nearest multiple of \$1,000 and—

25 “(A) is not less than \$30,000; and

1 “(B) is not more than the amount that re-
2 flects the change in the Consumer Price Index
3 for All Urban Consumers published by the Bu-
4 reau of Labor Statistics since the date on which
5 such dollar amounts were last amended or ad-
6 justed, as applicable.

7 “(2) PERIODIC ADJUSTMENTS.—

8 “(A) IN GENERAL.—At the end of each 5-
9 year period beginning on the date that the Sec-
10 retary makes the adjustment required under
11 paragraph (1), the Secretary shall readjust such
12 dollar amounts, rounded to the nearest multiple
13 of \$1,000, to reflect the change in the Con-
14 sumer Price Index for All Urban Consumers
15 published by the Bureau of Labor Statistics
16 since the date on which such dollar amounts
17 were last adjusted.

18 “(B) ALTERNATIVE ADJUSTMENT AUTHOR-
19 ITY.—If, at the time of an adjustment described
20 under subparagraph (A), the Secretary, after
21 consultation with law enforcement agencies and
22 the Bank Secrecy Act Advisory Group, deter-
23 mines that such adjustment would significantly
24 frustrate the ability of law enforcement and fi-
25 nancial institutions to detect and prevent money

1 laundrying and terrorism financing, the Sec-
2 retary may make such adjustment using a met-
3 ric other than the Consumer Price Index for All
4 Urban Consumers published by the Bureau of
5 Labor Statistics or choose to not make such ad-
6 justment.”.

7 (c) REPORTS ON COINS AND CURRENCY RECEIVED
8 IN NONFINANCIAL TRADE OR BUSINESS.—Section 5331
9 of title 31, United States Code, is amended by adding at
10 the end the following:

11 “(e) ADJUSTMENT FOR INFLATION.—

12 “(1) INITIAL ADJUSTMENT.—Not later than 1
13 year after the date of enactment of this subsection,
14 the Secretary of the Treasury shall adjust the dollar
15 amounts under this section, to an amount that is
16 rounded to the nearest multiple of \$1,000 and—

17 “(A) is not less than \$30,000; and

18 “(B) is not more than the amount that re-
19 flects the change in the Consumer Price Index
20 for All Urban Consumers published by the Bu-
21 reau of Labor Statistics since the date on which
22 such dollar amounts were last amended or ad-
23 justed, as applicable.

24 “(2) PERIODIC ADJUSTMENTS.—

1 “(A) IN GENERAL.—At the end of each 5-
2 year period beginning on the date that the Sec-
3 retary makes the adjustment required under
4 paragraph (1), the Secretary shall readjust such
5 dollar amounts, rounded to the nearest multiple
6 of \$1,000, to reflect the change in the Con-
7 sumer Price Index for All Urban Consumers
8 published by the Bureau of Labor Statistics
9 since the date on which such dollar amounts
10 were last adjusted.

11 “(B) ALTERNATIVE ADJUSTMENT AUTHOR-
12 ITY.—If, at the time of an adjustment described
13 under subparagraph (A), the Secretary, after
14 consultation with law enforcement agencies and
15 the Bank Secrecy Act Advisory Group, deter-
16 mines that such adjustment would significantly
17 frustrate the ability of law enforcement and fi-
18 nancial institutions to detect and prevent money
19 laundering and terrorism financing, the Sec-
20 retary may make such adjustment using a met-
21 ric other than the Consumer Price Index for All
22 Urban Consumers published by the Bureau of
23 Labor Statistics or choose to not make such ad-
24 justment.”.

1 **SEC. 3. MODIFICATION OF SUSPICIOUS ACTIVITY REPORT-**
2 **ING THRESHOLD.**

3 (a) IN GENERAL.—Each Federal department or
4 agency that issues regulations with respect to reports on
5 suspicious transactions described under section 5318(g) of
6 title 31, United States Code, shall, not later than 1 year
7 after the date of enactment of this Act, and every 5 years
8 thereafter, adjust any dollar amount thresholds contained
9 in such regulations to reflect the change in the Consumer
10 Price Index for All Urban Consumers published by the
11 Bureau of Labor Statistics since the date on which such
12 dollar amounts were last established or adjusted, as appli-
13 cable.

14 (b) ALTERNATIVE ADJUSTMENT AUTHORITY.—If, at
15 the time of an adjustment described under subsection (a)
16 other than the adjustment made within the 1-year period
17 following the date of the enactment of this Act, a Federal
18 department or agency, after consultation with law enforce-
19 ment agencies and the Bank Secrecy Act Advisory Group,
20 determines that such adjustment would significantly frus-
21 trate the ability of law enforcement and financial institu-
22 tions to detect and prevent money laundering and ter-
23 rorism financing, the Federal department or agency may
24 make such adjustment using a metric other than the Con-
25 sumer Price Index for All Urban Consumers published by

1 the Bureau of Labor Statistics or choose to not make such
2 adjustment.

3 **SEC. 4. IMPROVED INFORMATION SHARING.**

4 (a) DISCLOSURE TO FOREIGN BRANCHES OR AFFILI-
5 ATES.—Within 180 days after the date of enactment of
6 this Act, the Secretary of the Treasury shall, by regula-
7 tion, clearly authorize domestic financial institutions to
8 share suspicious activity reports with a foreign branch or
9 affiliate of the domestic financial institutions, if such
10 branch or affiliate is located in a country that—

11 (1) is a member of the Financial Action Task
12 Force (“FATF”) or a FATF-style regional body;
13 and

14 (2) has adequate privacy protections and data
15 security measures in effect to prevent the unauthor-
16 ized disclosure of such reports.

17 (b) LIABILITY.—A domestic financial institution that
18 transmits, receives, or shares suspicious activity reports
19 with a foreign branch or affiliate of the domestic financial
20 institution in accordance with the regulation promulgated
21 pursuant to subsection (a) shall not be liable to any person
22 under any law or regulation of the United States, any con-
23 stitution, law, or regulation of any State or political sub-
24 division thereof, or under any contract or other legally en-
25 forceable agreement (including any arbitration agree-

1 ment), for sharing such reports, except where such trans-
2 mission, receipt, or sharing violates this section or regula-
3 tions promulgated pursuant to this section.

4 (c) DISCLOSURE TO GOVERNMENT AGENCIES.—Sec-
5 tion 5318(g)(3)(B) of title 31, United States Code, is
6 amended—

7 (1) in clause (i), by striking “or” at the end;

8 (2) in clause (ii), by striking the period and in-
9 serting “; or”; and

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

11 “(iii) any duty or requirement of a fi-
12 nancial institution or any director, officer,
13 employee, or agent of such institution to
14 demonstrate that a disclosure described in
15 subparagraph (A) is made in good faith.”.

16 (d) COOPERATION AMONG FINANCIAL INSTITU-
17 TIONS.—Section 314 of the USA PATRIOT Act (31
18 U.S.C. 5311 note) is amended—

19 (1) in subsection (b)—

20 (A) by striking “suspected of possible ter-
21 rorist or money laundering activities” and in-
22 serting “for the purpose of identifying and, as
23 appropriate, reporting possible terrorist or
24 money laundering activities, or a specified un-
25 lawful activity (as defined under section

1 1956(c)(7) of title 18, United States Code”);
2 and

3 (B) by striking “or money laundering ac-
4 tivities shall” and inserting “, money laun-
5 dering activities, or a specified unlawful activity
6 (as defined under section 1956(c)(7) of title 18,
7 United States Code) shall”; and

8 (2) in subsection (c), by striking “engaged in or
9 suspected of engaging in terrorist acts or money
10 laundering activities” and inserting “for the purpose
11 of identifying and, as appropriate, reporting possible
12 terrorist acts or money laundering activities, or a
13 specified unlawful activity (as defined under section
14 1956(c)(7) of title 18, United States Code),”.

15 **SEC. 5. ADMINISTRATIVE RULINGS.**

16 (a) IN GENERAL.—Subchapter II of chapter 53 of
17 title 31, United States Code, is amended by adding at the
18 end the following:

19 **“§ 5333. Administrative rulings**

20 “(a) ESTABLISHMENT OF PROCEDURES.—

21 “(1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this section, the Secretary
23 of the Treasury, acting through the Financial
24 Crimes Enforcement Network, shall establish a pro-
25 cedure in accordance with the requirements of this

1 section to provide written rulings in response to in-
2 quires concerning the conformance of specific con-
3 duct with the Bank Secrecy Act.

4 “(2) CONSULTATION WITH OTHER AGENCIES
5 AND THE PUBLIC.—In establishing the procedure
6 under paragraph (1), the Secretary shall consult
7 with other financial regulators and such other Fed-
8 eral departments and agencies as the Secretary de-
9 termines appropriate, and obtain the views of all in-
10 terested persons through a public notice and com-
11 ment period.

12 “(b) REQUESTS.—

13 “(1) IN GENERAL.—A person making a request
14 for a ruling under this section—

15 “(A) shall make such request in writing;

16 “(B) shall include in such request—

17 “(i) a complete description of the situ-
18 ation for which the ruling is requested;

19 “(ii) a complete statement of all mate-
20 rial facts related to the subject transaction;

21 “(iii) a concise and unambiguous
22 question to be answered;

23 “(iv) a statement certifying, to the
24 best of the requestor’s knowledge and be-
25 lief, that the question to be answered is

1 not applicable to any ongoing state or Fed-
2 eral investigation, litigation, grand jury
3 proceeding, or proceeding before any other
4 governmental body involving either the re-
5 questor, any other party to the subject
6 transaction, or any other party with whom
7 the requestor has an agency relationship;

8 “(v) a statement identifying any infor-
9 mation in the request that the requestor
10 considers to be exempt from disclosure
11 under section 552 of title 5, United States
12 Code (commonly referred to as the ‘Free-
13 dom of Information Act’), and the reason
14 therefor;

15 “(vi) if the subject situation is hypo-
16 thetical, a statement justifying why the
17 particular situation described warrants the
18 issuance of a ruling; and

19 “(vii) the signature of—

20 “(I) the person making the re-
21 quest;

22 “(II) if an agent makes the re-
23 quest, the agent, accompanied by a
24 statement certifying the authority
25 under which the request is made; or

1 “(III) if the request is being filed
2 by a corporation or a partnership, a
3 corporate officer or a partner, as ap-
4 plicable;

5 “(C) may advocate a particular proposed
6 interpretation and may set forth the legal and
7 factual basis for that interpretation; and

8 “(D) shall advise immediately in writing of
9 any subsequent change in any material fact or
10 statement submitted with a request under this
11 section.

12 “(2) WITHDRAWAL OF REQUEST.—A person
13 may withdraw a request made under this section at
14 any time before the ruling has been issued.

15 “(3) NONCONFORMING REQUESTS.—The Sec-
16 retary shall notify a requester if the request does not
17 conform with the requirements of paragraph (1).
18 Such notice shall be in writing and shall describe the
19 requirements that have not been met. A request that
20 is not brought into conformity with such require-
21 ments within 30 days from the date of such notice,
22 unless extended for good cause by the Secretary,
23 shall be treated as though it were withdrawn.

24 “(c) RIGHT TO ORAL DISCUSSIONS.—

1 “(1) IN GENERAL.—A person who has made a
2 request in conformity with subsection (b)(1) may re-
3 quest an opportunity for oral discussion of the issues
4 presented in the request, but—

5 “(A) personal conferences or telephone
6 conferences may be scheduled only for the pur-
7 pose of affording the requester an opportunity
8 to discuss freely and openly the matters set
9 forth in the request; and

10 “(B) the conferees will not be bound by
11 any argument or position advocated or agreed
12 to, expressly or impliedly, during the con-
13 ference.

14 “(2) AT THE DISCRETION OF THE SEC-
15 RETARY.—The request should be made to the Sec-
16 retary, and any decision to grant such a conference
17 is wholly within the discretion of the Secretary.

18 “(3) TREATMENT OF NEW ARGUMENTS OR
19 FACTS.—Any new arguments or facts put forth by
20 the requester at the meeting must be reduced to
21 writing by the requester and submitted in con-
22 formity with subsection (b)(1) before they may be
23 considered in connection with the request.

24 “(d) ISSUING RULINGS.—

1 “(1) IN GENERAL.—The Secretary shall, within
2 120 days of receiving the request for a ruling under
3 this section, issue a written ruling interpreting the
4 relationship between the Bank Secrecy Act and each
5 situation for which such a ruling has been requested
6 under this section.

7 “(2) PUBLIC DISCLOSURE.—A ruling rendered
8 pursuant to this section shall be placed in the public
9 record 90 days after the requesting party has re-
10 ceived the ruling, subject to any limitations on public
11 disclosure arising from statutory restrictions, regula-
12 tions, or the public interest. The Secretary shall re-
13 dact any personal, confidential, or identifying infor-
14 mation about the person or any other persons men-
15 tioned in the administrative ruling, unless the person
16 consents to such disclosure.

17 “(3) PRECEDENTIAL VALUE OF RULINGS.—A
18 ruling issued under this section shall bind the Sec-
19 retary and shall have precedential value, and hence
20 may be relied upon by others similarly situated.

21 “(4) AVAILABILITY OF RULINGS.—The Sec-
22 retary shall make all such rulings available to any
23 person upon written request specifically identifying
24 the ruling sought.

25 “(e) MODIFYING OR RESCINDING RULINGS.—

1 “(1) IN GENERAL.—The Secretary may modify
2 or rescind any ruling made pursuant to this sec-
3 tion—

4 “(A) when, in light of changes in statute
5 or regulations, the ruling no longer sets forth
6 the interpretation of the Secretary with respect
7 to the described situation;

8 “(B) when any fact or statement submitted
9 in the original request is found to be materially
10 inaccurate or incomplete; or

11 “(C) for other good cause.

12 “(2) REQUEST FOR MODIFICATION OR RESCIS-
13 SION.—Any person may submit to the Secretary a
14 written request that a ruling be modified or re-
15 scinded. Such request—

16 “(A) should conform to the requirements
17 of subsection (b), explain why rescission or
18 modification is warranted, and refer to any rea-
19 sons in paragraph (1) that are relevant; and

20 “(B) may advocate an alternative interpre-
21 tation and may set forth the legal and factual
22 basis for that interpretation.

23 “(3) MANNER IN WHICH MODIFICATIONS OR
24 RESCISSIONS ARE MADE.—The Secretary shall mod-

1 ify or rescind an existing ruling by issuing a new
2 ruling that rescinds the relevant prior ruling.

3 “(4) RESCINDED RULINGS LOSE PRECEDENTIAL
4 VALUE.—Once rescinded, a ruling shall no longer
5 have any precedential value.

6 “(5) APPLICATION TO ORIGINAL PARTIES.—A
7 ruling may be modified or rescinded retroactively
8 with respect to one or more parties to the original
9 ruling request if the Secretary determines that—

10 “(A) a fact or statement in the original re-
11 quest was materially inaccurate or incomplete;

12 “(B) the requestor failed to notify in writ-
13 ing the Secretary of a material change to any
14 fact or statement in the original request; or

15 “(C) a party to the original request acted
16 in bad faith when relying upon the ruling.

17 “(f) DISCLOSURE OF INFORMATION.—

18 “(1) IN GENERAL.—Any part of any ruling, in-
19 cluding names, addresses, or information related to
20 the business transactions of private parties, may be
21 disclosed pursuant to a request under section 552 of
22 title 5, United States Code (commonly referred to as
23 the ‘Freedom of Information Act’).

24 “(2) REQUEST FOR EXEMPTION.—If the re-
25 quest for a ruling contains information which the re-

1 requestor wishes to be considered for exemption from
2 disclosure under such section 552, the requestor
3 should clearly identify such portions of the request
4 and the reasons why such information should be ex-
5 empt from disclosure.

6 “(3) NOTICE TO REQUESTOR.—A requestor
7 claiming an exemption from disclosure shall be noti-
8 fied by the Secretary, at least 10 days before the
9 ruling is issued, of a decision not to exempt any of
10 such information from disclosure so that the under-
11 lying request for a ruling can be withdrawn if the
12 requestor so chooses.

13 “(g) INQUIRY FEE.—

14 “(1) IN GENERAL.—The Secretary may charge
15 a fee for each inquiry made under this section in an
16 amount sufficient, in the aggregate, to pay for the
17 cost of carrying out this section and such amounts
18 may be used, without further appropriation, to carry
19 out this section. Such system shall provide a lower
20 fee for small business concerns compared to the fee
21 charged to other persons.

22 “(2) NOTICE AND COMMENT.—If the Secretary
23 decides to charge the fee described under paragraph
24 (1)—

1 “(A) the Secretary shall establish a system
2 for charging such fee, publish a description of
3 such system in the Federal Register, and solicit
4 comments from the public for a period of 60
5 days after publication; and

6 “(B) publish a final description of the fee
7 system and implement such fee system not later
8 than 30 days after the end of such public com-
9 ment period.

10 “(h) REPORT TO CONGRESS.—The Secretary shall, in
11 a semi-annual report, submit information regarding the
12 number of requests for an administrative ruling received
13 under this section, the subject of each request, the number
14 of nonconforming requests treated as withdrawn pursuant
15 to subsection (b)(3), and the time needed to respond to
16 each request.

17 “(i) DEFINITIONS.—For purposes of this section:

18 “(1) BANK SECRECY ACT.—The term ‘Bank Se-
19 crecy Act’ means—

20 “(A) this subchapter;

21 “(B) section 21 of the Federal Deposit In-
22 surance Act;

23 “(C) chapter 2 of title I of Public Law 91–
24 508; and

1 “(D) section 314 of the USA PATRIOT
2 Act.

3 “(2) SMALL BUSINESS CONCERN.—The term
4 ‘small business concern’ has the meaning given such
5 term under section 3 of the Small Business Act.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 in chapter 53 of title 31, United States Code, is amended
8 by inserting after the item relating to section 5332 the
9 following:

 “5333. Administrative rulings.”.

10 **SEC. 6. QUALITATIVE FEEDBACK MECHANISM.**

11 Within 180 days after the date of enactment of this
12 Act, the Secretary of the Treasury shall, after providing
13 for public notice and comment, establish a mechanism
14 to—

15 (1) communicate annual anti-money laundering
16 and countering terrorism financing priorities to fi-
17 nancial institutions, other Federal financial regu-
18 lators, and such other Federal departments and
19 agencies as the Secretary determines appropriate;
20 and

21 (2) provide to financial institutions qualitative
22 feedback on information shared by financial institu-
23 tions with the Department of Treasury, including
24 currency transaction reports and suspicious activity
25 reports.

1 **SEC. 7. REPORT.**

2 Within 1 year of the date of the enactment of this
3 Act, the Secretary of the Treasury, in consultation with
4 the Federal banking agencies (as such term is defined
5 under Section 3 of the Federal Deposit Insurance Act)
6 and other agencies, as applicable, shall submit a report
7 to the Committee on Financial Services of the House of
8 Representatives and the Committee on Banking, Housing,
9 and Urban Affairs of the Senate on—

10 (1) the potential for artificial intelligence, ma-
11 chine learning, and other technologies to help detect
12 and prevent money laundering and terrorist financ-
13 ing;

14 (2) the costs and benefits associated with the
15 establishment, by the Federal Government or by the
16 Federal Government in partnership with the private
17 sector, of a centralized database to help financial in-
18 stitutions detect and prevent money laundering and
19 terrorist financing, including the impact of such a
20 database on the security and privacy of financial in-
21 formation and the ability of technology or changes in
22 law to ensure the security and privacy of such infor-
23 mation;

24 (3) actions that can be taken, administratively
25 or through the enactment of legislation, to stream-

1 line and improve reporting requirements under the
2 United States anti-money laundering regime;

3 (4) how to further include law enforcement
4 within the United States anti-money laundering re-
5 gime and establish methods for law enforcement to
6 provide feedback to institutions on the information
7 they submit;

8 (5) the utility of a single filing threshold for
9 suspicious activity reports as an alternative to vary-
10 ing thresholds, as currently in effect; and

11 (6) the mechanism described in section 6.

12 **SEC. 8. DEFINITIONS.**

13 For purposes of this Act:

14 (1) **CURRENCY TRANSACTION REPORT.**—The
15 term “currency transaction report” means a report
16 described under section 5313, 5316, or 5331 of title
17 31, United States Code.

18 (2) **FINANCIAL INSTITUTION.**—The term “fi-
19 nancial institution” has the meaning given that term
20 under section 5312 of title 31, United States Code.

21 (3) **SUSPICIOUS ACTIVITY REPORT.**—The term
22 “suspicious activity report” means a report de-
23 scribed under section 5318(g) of title 31, United
24 States Code.

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