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1ST SESSION

H. R. 2513

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 2019

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, 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 **DIVISION A—CORPORATE**
4 **TRANSPARENCY ACT OF 2019**

5 **SECTION 1. SHORT TITLE.**

6 (a) IN GENERAL.—This Act may be cited as the
7 “Corporate Transparency Act of 2019”.

8 (b) REFERENCES TO THIS ACT.—In this division—

9 (1) any reference to “this Act” shall be deemed
10 a reference to “this division”; and

11 (2) except as otherwise expressly provided, any
12 reference to a section or other provision shall be
13 deemed a reference to that section or other provision
14 of this division.

15 **SEC. 2. FINDINGS.**

16 Congress finds the following:

17 (1) Nearly 2,000,000 corporations and limited
18 liability companies are being formed under the laws
19 of the States each year.

20 (2) Very few States require information about
21 the beneficial owners of the corporations and limited
22 liability companies formed under their laws.

23 (3) A person forming a corporation or limited
24 liability company within the United States typically
25 provides less information at the time of incorpora-

1 tion than is needed to obtain a bank account or driv-
2 er's license and typically does not name a single ben-
3 eficial owner.

4 (4) Criminals have exploited State formation
5 procedures to conceal their identities when forming
6 corporations or limited liability companies in the
7 United States, and have then used the newly created
8 entities to commit crimes affecting interstate and
9 international commerce such as terrorism, prolifera-
10 tion financing, drug and human trafficking, money
11 laundering, tax evasion, counterfeiting, piracy, secu-
12 rities fraud, financial fraud, and acts of foreign cor-
13 ruption.

14 (5) Law enforcement efforts to investigate cor-
15 porations and limited liability companies suspected
16 of committing crimes have been impeded by the lack
17 of available beneficial ownership information, as doc-
18 umented in reports and testimony by officials from
19 the Department of Justice, the Department of
20 Homeland Security, the Department of the Treas-
21 ury, and the Government Accountability Office, and
22 others.

23 (6) In July 2006, the leading international
24 antimoney laundering standard-setting body, the Fi-
25 nancial Action Task Force on Money Laundering (in

1 this section referred to as the “FATF”), of which
2 the United States is a member, issued a report that
3 criticizes the United States for failing to comply
4 with a FATF standard on the need to collect bene-
5 ficial ownership information and urged the United
6 States to correct this deficiency by July 2008. In
7 December 2016, FATF issued another evaluation of
8 the United States, which found that little progress
9 has been made over the last ten years to address
10 this problem. It identified the “lack of timely access
11 to adequate, accurate and current beneficial owner-
12 ship information” as a fundamental gap in United
13 States efforts to combat money laundering and ter-
14 rorist finance.

15 (7) In response to the 2006 FATF report, the
16 United States has urged the States to obtain bene-
17 ficial ownership information for the corporations and
18 limited liability companies formed under the laws of
19 such States.

20 (8) In contrast to practices in the United
21 States, all 28 countries in the European Union are
22 required to have corporate registries that include
23 beneficial ownership information.

24 (9) To reduce the vulnerability of the United
25 States to wrongdoing by United States corporations

1 and limited liability companies with hidden owners,
 2 to protect interstate and international commerce
 3 from criminals misusing United States corporations
 4 and limited liability companies, to strengthen law en-
 5 forcement investigations of suspect corporations and
 6 limited liability companies, to set a clear, universal
 7 standard for State incorporation practices, and to
 8 bring the United States into compliance with inter-
 9 national anti-money laundering standards, Federal
 10 legislation is needed to require the collection of bene-
 11 ficial ownership information for the corporations and
 12 limited liability companies formed under the laws of
 13 such States.

14 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

15 (a) IN GENERAL.—

16 (1) AMENDMENT TO THE BANK SECRECY
 17 ACT.—Chapter 53 of title 31, United States Code, is
 18 amended by inserting after section 5332 the fol-
 19 lowing new section:

20 **“§ 5333 Transparent incorporation practices**

21 **“(a) REPORTING REQUIREMENTS.—**

22 **“(1) BENEFICIAL OWNERSHIP REPORTING.—**

23 **“(A) IN GENERAL.—**Each applicant to
 24 form a corporation or limited liability company
 25 under the laws of a State or Indian Tribe shall

1 file a report with FinCEN containing a list of
2 the beneficial owners of the corporation or lim-
3 ited liability company that—

4 “(i) except as provided in paragraphs
5 (3) and (4), and subject to paragraph (2),
6 identifies each beneficial owner by—

7 “(I) full legal name;

8 “(II) date of birth;

9 “(III) current residential or busi-
10 ness street address; and

11 “(IV) a unique identifying num-
12 ber from a non-expired passport
13 issued by the United States, a non-ex-
14 pired personal identification card, or a
15 non-expired driver’s license issued by
16 a State; and

17 “(ii) if the applicant is not a bene-
18 ficial owner, also provides the identification
19 information described in clause (i) relating
20 to such applicant.

21 “(B) UPDATED INFORMATION.—Each cor-
22 poration or limited liability company formed
23 under the laws of a State or Indian Tribe
24 shall—

1 “(i) submit to FinCEN an annual fil-
2 ing containing a list of—

3 “(I) the current beneficial owners
4 of the corporation or limited liability
5 company and the information de-
6 scribed in subparagraph (A) for each
7 such beneficial owner; and

8 “(II) any changes in the bene-
9 ficial owners of the corporation or lim-
10 ited liability company during the pre-
11 vious year; and

12 “(ii) pursuant to any rule issued by
13 the Secretary of the Treasury under sub-
14 paragraph (C), update the list of the bene-
15 ficial owners of the corporation or limited
16 liability company within the time period
17 prescribed by such rule.

18 “(C) RULEMAKING ON UPDATING INFOR-
19 MATION.—Not later than 9 months after the
20 completion of the study required under section
21 4(a)(1) of the Corporate Transparency Act of
22 2019, the Secretary of the Treasury shall con-
23 sider the findings of such study and, if the Sec-
24 retary determines it to be necessary or appro-
25 priate, issue a rule requiring corporations and

1 limited liability companies to update the list of
2 the beneficial owners of the corporation or lim-
3 ited liability company within a specified amount
4 of time after the date of any change in the list
5 of beneficial owners or the information required
6 to be provided relating to each beneficial owner.

7 “(D) STATE NOTIFICATION.—Each State
8 in which a corporation or limited liability com-
9 pany is being formed shall notify each applicant
10 of the requirements listed in subparagraphs (A)
11 and (B).

12 “(2) CERTAIN BENEFICIAL OWNERS.—If an ap-
13 plicant to form a corporation or limited liability com-
14 pany or a beneficial owner, or similar agent of a cor-
15 poration or limited liability company who is required
16 to provide identification information under this sub-
17 section, does not have a nonexpired passport issued
18 by the United States, a nonexpired personal identi-
19 fication card, or a non-expired driver’s license issued
20 by a State, each such person shall provide to
21 FinCEN the full legal name, current residential or
22 business street address, a unique identifying number
23 from a non-expired passport issued by a foreign gov-
24 ernment, and a legible and credible copy of the
25 pages of a non-expired passport issued by the gov-

1 ernment of a foreign country bearing a photograph,
2 date of birth, and unique identifying information for
3 each beneficial owner, and each application described
4 in paragraph (1)(A) and each update described in
5 paragraph (1)(B) shall include a written certification
6 by a person residing in the State or Indian country
7 under the jurisdiction of the Indian Tribe forming
8 the entity that the applicant, corporation, or limited
9 liability company—

10 “(A) has obtained for each such beneficial
11 owner, a current residential or business street
12 address and a legible and credible copy of the
13 pages of a non-expired passport issued by the
14 government of a foreign country bearing a pho-
15 tograph, date of birth, and unique identifying
16 information for the person;

17 “(B) has verified the full legal name, ad-
18 dress, and identity of each such person;

19 “(C) will provide the information described
20 in subparagraph (A) and the proof of
21 verification described in subparagraph (B) upon
22 request of FinCEN; and

23 “(D) will retain the information and proof
24 of verification under this paragraph until the
25 end of the 5-year period beginning on the date

1 that the corporation or limited liability company
2 terminates under the laws of the State or In-
3 dian Tribe.

4 “(3) EXEMPT ENTITIES.—

5 “(A) IN GENERAL.—With respect to an ap-
6 plicant to form a corporation or limited liability
7 company under the laws of a State or Indian
8 Tribe, if such entity is described in subpara-
9 graph (C) or (D) of subsection (d)(4) and will
10 be exempt from the beneficial ownership disclo-
11 sure requirements under this subsection, such
12 applicant, or a prospective officer, director, or
13 similar agent of the applicant, shall file a writ-
14 ten certification with FinCEN—

15 “(i) identifying the specific provision
16 of subsection (d)(4) under which the entity
17 proposed to be formed would be exempt
18 from the beneficial ownership disclosure re-
19 quirements under paragraphs (1) and (2);

20 “(ii) stating that the entity proposed
21 to be formed meets the requirements for
22 an entity described under such provision of
23 subsection (d)(4); and

24 “(iii) providing identification informa-
25 tion for the applicant or prospective offi-

cer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

“(B) EXISTING CORPORATIONS OR LIMITED LIABILITY COMPANIES.—On and after the date that is 2 years after the final regulations are issued to carry out this section, a corporation or limited liability company formed under the laws of the State or Indian Tribe before such date shall be subject to the requirements of this subsection unless an officer, director, or similar agent of the entity submits to FinCEN a written certification—

“(i) identifying the specific provision of subsection (d)(4) under which the entity is exempt from the requirements under paragraphs (1) and (2);

“(ii) stating that the entity meets the requirements for an entity described under such provision of subsection (d)(4); and

“(iii) providing identification information for the officer, director, or similar agent making the certification in the same manner as provided under paragraph (1) or (2).

1 “(C) EXEMPT ENTITIES HAVING OWNER-
2 SHIP INTEREST.—If an entity described in sub-
3 paragraph (C) or (D) of subsection (d)(4) has
4 or will have an ownership interest in a corpora-
5 tion or limited liability company formed or to be
6 formed under the laws of a State or Indian
7 Tribe, the applicant, corporation, or limited li-
8 ability company in which the entity has or will
9 have the ownership interest shall provide the in-
10 formation required under this subsection relat-
11 ing to the entity, except that the entity shall
12 not be required to provide information regard-
13 ing any natural person who has an ownership
14 interest in, exercises substantial control over, or
15 receives substantial economic benefits from the
16 entity.

17 “(4) FINCEN ID NUMBERS.—

18 “(A) ISSUANCE OF FINCEN ID NUMBER.—

19 “(i) IN GENERAL.—FinCEN shall
20 issue a FinCEN ID number to any indi-
21 vidual who requests such a number and
22 provides FinCEN with the information de-
23 scribed under subclauses (I) through (IV)
24 of paragraph (1)(A)(i).

1 “(ii) UPDATING OF INFORMATION.—

2 An individual with a FinCEN ID number
3 shall submit an annual filing with FinCEN
4 updating any information described under
5 subclauses (I) through (IV) of paragraph
6 (1)(A)(i).

7 “(B) USE OF FINCEN ID NUMBER IN RE-
8 PORTING REQUIREMENTS.—Any person re-
9 quired to report the information described
10 under paragraph (1)(A)(i) with respect to an
11 individual may instead report the FinCEN ID
12 number of the individual.

13 “(C) TREATMENT OF INFORMATION SUB-
14 MITTED FOR FINCEN ID NUMBER.—For pur-
15 poses of this section, any information submitted
16 under subparagraph (A) shall be deemed to be
17 beneficial ownership information.

18 “(5) RETENTION AND DISCLOSURE OF BENE-
19 FICIAL OWNERSHIP INFORMATION BY FINCEN.—

20 “(A) RETENTION OF INFORMATION.—Ben-
21 efiticial ownership information relating to each
22 corporation or limited liability company formed
23 under the laws of the State or Indian Tribe
24 shall be maintained by FinCEN until the end of
25 the 5-year period (or such other period of time

1 as the Secretary of the Treasury may, by rule,
2 determine) beginning on the date that the cor-
3 poration or limited liability company termi-
4 nates.

5 “(B) DISCLOSURE OF INFORMATION.—
6 Beneficial ownership information reported to
7 FinCEN pursuant to this section shall be pro-
8 vided by FinCEN only upon receipt of—

9 “(i) subject to subparagraph (C), a
10 request, through appropriate protocols, by
11 a local, Tribal, State, or Federal law en-
12 forcement agency;

13 “(ii) a request made by a Federal
14 agency on behalf of a law enforcement
15 agency of another country under an inter-
16 national treaty, agreement, or convention,
17 or an order under section 3512 of title 18
18 or section 1782 of title 28; or

19 “(iii) a request made by a financial
20 institution, with customer consent, as part
21 of the institution’s compliance with due
22 diligence requirements imposed under the
23 Bank Secrecy Act, the USA PATRIOT
24 Act, or other applicable Federal, State, or
25 Tribal law.

1 “(C) APPROPRIATE PROTOCOLS.—

2 “(i) PRIVACY.—The protocols de-
3 scribed in subparagraph (B)(i) shall—

4 “(I) protect the privacy of any
5 beneficial ownership information pro-
6 vided by FinCEN to a local, Tribal,
7 State, or Federal law enforcement
8 agency;

9 “(II) ensure that a local, Tribal,
10 State, or Federal law enforcement
11 agency requesting beneficial ownership
12 information has an existing investiga-
13 tory basis for requesting such infor-
14 mation;

15 “(III) ensure that access to bene-
16 ficial ownership information is limited
17 to authorized users at a local, Tribal,
18 State, or Federal law enforcement
19 agency who have undergone appro-
20 priate training, and refresher training
21 no less than every two years, and that
22 the identity of such authorized users
23 is verified through appropriate mecha-
24 nisms, such as two-factor authentica-
25 tion;

1 “(IV) include an audit trail of re-
2 quests for beneficial ownership infor-
3 mation by a local, Tribal, State, or
4 Federal law enforcement agency, in-
5 cluding, as necessary, information
6 concerning queries made by author-
7 ized users at a local, Tribal, State, or
8 Federal law enforcement agency;

9 “(V) require that every local,
10 Tribal, State, or Federal law enforce-
11 ment agency that receives beneficial
12 ownership information from FinCEN
13 conducts an annual audit to verify
14 that the beneficial ownership informa-
15 tion received from FinCEN has been
16 accessed and used appropriately, and
17 consistent with this paragraph; and

18 “(VI) require FinCEN to con-
19 duct an annual audit of every local,
20 Tribal, State, or Federal law enforce-
21 ment agency that has received bene-
22 ficial ownership information to ensure
23 that such agency has requested bene-
24 ficial ownership information, and has
25 used any beneficial ownership infor-

1 mation received from FinCEN, appro-
2 priately, and consistent with this
3 paragraph.

4 “(ii) LIMITATION ON USE.—Beneficial
5 ownership information provided to a local,
6 Tribal, State, or Federal law enforcement
7 agency under this paragraph may only be
8 used for law enforcement, national secu-
9 rity, or intelligence purposes.

10 “(D) ACCESS PROCEDURES.—FinCEN
11 shall establish stringent procedures for the pro-
12 tection and proper use of beneficial ownership
13 information disclosed pursuant to subparagraph
14 (B), including procedures to ensure such infor-
15 mation is not being inappropriately accessed or
16 misused by law enforcement agencies.

17 “(E) REPORT TO CONGRESS.—FinCEN
18 shall issue an annual report to Congress stat-
19 ing—

20 “(i) the number of times law enforce-
21 ment agencies and financial institutions
22 have accessed beneficial ownership infor-
23 mation pursuant to subparagraph (B);

24 “(ii) the number of times beneficial
25 ownership information reported to

1 FinCEN pursuant to this section was inap-
2 propriately accessed, and by whom; and

3 “(iii) the number of times beneficial
4 ownership information was disclosed under
5 subparagraph (B) pursuant to a subpoena.

6 “(F) DISCLOSURE OF NON-PII DATA.—
7 Notwithstanding subparagraph (B), FinCEN
8 may issue guidance and otherwise make mate-
9 rials available to financial institutions and the
10 public using beneficial ownership information
11 reported pursuant to this section if such infor-
12 mation is aggregated in a manner that removes
13 all personally identifiable information. For pur-
14 poses of this subparagraph, ‘personally identifi-
15 able information’ includes information that
16 would allow for the identification of a particular
17 corporation or limited liability company.

18 “(b) NO BEARER SHARE CORPORATIONS OR LIM-
19 ITED LIABILITY COMPANIES.—A corporation or limited li-
20 ability company formed under the laws of a State or In-
21 dian Tribe may not issue a certificate in bearer form evi-
22 dencing either a whole or fractional interest in the cor-
23 poration or limited liability company.

24 “(c) PENALTIES.—

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

3 “(A) knowingly providing, or attempting to
4 provide, false or fraudulent beneficial ownership
5 information, including a false or fraudulent
6 identifying photograph, to FinCEN in accord-
7 ance with this section;

8 “(B) willfully failing to provide complete or
9 updated beneficial ownership information to
10 FinCEN in accordance with this section; or

11 “(C) knowingly disclosing the existence of
12 a subpoena or other request for beneficial own-
13 ership information reported pursuant to this
14 section, except—

15 “(i) to the extent necessary to fulfill
16 the authorized request; or

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

19 “(2) CIVIL AND CRIMINAL PENALTIES.—Any
20 person who violates paragraph (1)—

21 “(A) shall be liable to the United States
22 for a civil penalty of not more than \$10,000;
23 and

1 “(B) may be fined under title 18, United
2 States Code, imprisoned for not more than 3
3 years, or both.

4 “(3) LIMITATION.—Any person who negligently
5 violates paragraph (1) shall not be subject to civil or
6 criminal penalties under paragraph (2).

7 “(4) WAIVER.—The Secretary of the Treasury
8 may waive the penalty for violating paragraph (1) if
9 the Secretary determines that the violation was due
10 to reasonable cause and was not due to willful ne-
11 glect.

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

21 “(d) DEFINITIONS.—For the purposes of this section:

22 “(1) APPLICANT.—The term ‘applicant’ means
23 any natural person who files an application to form
24 a corporation or limited liability company under the
25 laws of a State or Indian Tribe.

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

3 “(A) section 21 of the Federal Deposit In-
4 surance Act;

5 “(B) chapter 2 of title I of Public Law 91–
6 508; and

7 “(C) this subchapter.

8 “(3) BENEFICIAL OWNER.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘beneficial owner’
11 means a natural person who, directly or indi-
12 rectly, through any contract, arrangement, un-
13 derstanding, relationship, or otherwise—

14 “(i) exercises substantial control over
15 a corporation or limited liability company;

16 “(ii) owns 25 percent or more of the
17 equity interests of a corporation or limited
18 liability company; or

19 “(iii) receives substantial economic
20 benefits from the assets of a corporation or
21 limited liability company.

22 “(B) EXCEPTIONS.—The term ‘beneficial
23 owner’ shall not include—

1 “(i) a minor child, as defined in the
2 State or Indian Tribe in which the entity
3 is formed;

4 “(ii) a person acting as a nominee,
5 intermediary, custodian, or agent on behalf
6 of another person;

7 “(iii) a person acting solely as an em-
8 ployee of a corporation or limited liability
9 company and whose control over or eco-
10 nomic benefits from the corporation or lim-
11 ited liability company derives solely from
12 the employment status of the person;

13 “(iv) a person whose only interest in
14 a corporation or limited liability company
15 is through a right of inheritance; or

16 “(v) a creditor of a corporation or
17 limited liability company, unless the cred-
18 itor also meets the requirements of sub-
19 paragraph (A).

20 “(C) SUBSTANTIAL ECONOMIC BENEFITS
21 DEFINED.—

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A)(ii), a natural person re-
24 ceives substantial economic benefits from
25 the assets of a corporation or limited liabil-

1 ity company if the person has an entitle-
2 ment to more than a specified percentage
3 of the funds or assets of the corporation or
4 limited liability company, which the Sec-
5 retary of the Treasury shall, by rule, estab-
6 lish.

7 “(ii) RULEMAKING CRITERIA.—In es-
8 tablishing the percentage under clause (i),
9 the Secretary of the Treasury shall seek
10 to—

11 “(I) provide clarity to corpora-
12 tions and limited liability companies
13 with respect to the identification and
14 disclosure of a natural person who re-
15 ceives substantial economic benefits
16 from the assets of a corporation or
17 limited liability company; and

18 “(II) identify those natural per-
19 sons who, as a result of the substan-
20 tial economic benefits they receive
21 from the assets of a corporation or
22 limited liability company, exercise a
23 dominant influence over such corpora-
24 tion or limited liability company.

1 “(4) CORPORATION; LIMITED LIABILITY COM-
2 PANY.—The terms ‘corporation’ and ‘limited liability
3 company’—

4 “(A) have the meanings given such terms
5 under the laws of the applicable State or Indian
6 Tribe;

7 “(B) include any non-United States entity
8 eligible for registration or registered to do busi-
9 ness as a corporation or limited liability com-
10 pany under the laws of the applicable State or
11 Indian Tribe;

12 “(C) do not include any entity that is—

13 “(i) a business concern that is an
14 issuer of a class of securities registered
15 under section 12 of the Securities Ex-
16 change Act of 1934 (15 U.S.C. 781) or
17 that is required to file reports under sec-
18 tion 15(d) of that Act (15 U.S.C. 78o(d));

19 “(ii) a business concern constituted,
20 sponsored, or chartered by a State or In-
21 dian Tribe, a political subdivision of a
22 State or Indian Tribe, under an interstate
23 compact between two or more States, by a
24 department or agency of the United

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

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

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

9 “(v) a bank holding company (as de-
10 fined in section 2 of the Bank Holding
11 Company Act of 1956 (12 U.S.C. 1841))
12 or a savings and loan holding company (as
13 defined in section 10(a) of the Home Own-
14 ers’ Loan Act (12 U.S.C. 1467a(a));

15 “(vi) a broker or dealer (as defined in
16 section 3 of the Securities Exchange Act of
17 1934 (15 U.S.C. 78c)) that is registered
18 under section 15 of the Securities Ex-
19 change Act of 1934 (15 U.S.C. 78o);

20 “(vii) an exchange or clearing agency
21 (as defined in section 3 of the Securities
22 Exchange Act of 1934 (15 U.S.C. 78c))
23 that is registered under section 6 or 17A
24 of the Securities Exchange Act of 1934
25 (15 U.S.C. 78f and 78q–1);

1 “(viii) an investment company (as de-
2 fined in section 3 of the Investment Com-
3 pany Act of 1940 (15 U.S.C. 80a-3)) or
4 an investment adviser (as defined in sec-
5 tion 202(11) of the Investment Advisers
6 Act of 1940 (15 U.S.C. 80b-2(11))), if the
7 company or adviser is registered with the
8 Securities and Exchange Commission, has
9 filed an application for registration which
10 has not been denied, under the Investment
11 Company Act of 1940 (15 U.S.C. 80a-1 et
12 seq.) or the Investment Adviser Act of
13 1940 (15 U.S.C. 80b-1 et seq.), or is an
14 investment adviser described under section
15 203(l) of the Investment Advisers Act of
16 1940 (15 U.S.C. 80b-3(l));

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

20 “(x) a registered entity (as defined in
21 section 1a of the Commodity Exchange Act
22 (7 U.S.C. 1a)), or a futures commission
23 merchant, introducing broker, commodity
24 pool operator, or commodity trading advi-
25 sor (as defined in section 1a of the Com-

1 modity Exchange Act (7 U.S.C. 1a)) that
2 is registered with the Commodity Futures
3 Trading Commission;

4 “(xi) a public accounting firm reg-
5 istered in accordance with section 102 of
6 the Sarbanes-Oxley Act (15 U.S.C. 7212)
7 or an entity controlling, controlled by, or
8 under common control of such a firm;

9 “(xii) a public utility that provides
10 telecommunications service, electrical
11 power, natural gas, or water and sewer
12 services, within the United States;

13 “(xiii) a church, charity, nonprofit en-
14 tity, or other organization that is described
15 in section 501(c), 527, or 4947(a)(1) of
16 the Internal Revenue Code of 1986, that
17 has not been denied tax exempt status, and
18 that has filed the most recently due annual
19 information return with the Internal Rev-
20 enue Service, if required to file such a re-
21 turn;

22 “(xiv) a financial market utility des-
23 ignated by the Financial Stability Over-
24 sight Council under section 804 of the

1 Dodd-Frank Wall Street Reform and Con-
2 sumer Protection Act;

3 “(xv) an insurance producer (as de-
4 fined in section 334 of the Gramm-Leach-
5 Bliley Act);

6 “(xvi) any pooled investment vehicle
7 that is operated or advised by a person de-
8 scribed in clause (iii), (iv), (v), (vi), (viii),
9 (ix), or (xi);

10 “(xvii) any business concern that—

11 “(I) employs more than 20 em-
12 ployees on a full-time basis in the
13 United States;

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

18 “(III) has an operating presence
19 at a physical office within the United
20 States; or

21 “(xviii) any corporation or limited li-
22 ability company formed and owned by an
23 entity described in this clause or in clause
24 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix),

(x), (xi), (xii), (xiii), (xiv), (xv), or (xvi);

and

“(D) do not include any individual business concern or class of business concerns which the Secretary of the Treasury and the Attorney General of the United States have jointly determined, by rule or otherwise, to be exempt from the requirements of subsection (a), if the Secretary and the Attorney General jointly determine that requiring beneficial ownership information from the business concern would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or prosecute terrorism, money laundering, tax evasion, or other misconduct.

“(5) FINCEN.—The term ‘FinCEN’ means the Financial Crimes Enforcement Network of the Department of the Treasury.

“(6) INDIAN COUNTRY.—The term ‘Indian country’ has the meaning given that term in section 1151 of title 18.

“(7) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given that term under section 102 of the Federally Recognized Indian Tribe List Act of 1994.

1 “(8) PERSONAL IDENTIFICATION CARD.—The
2 term ‘personal identification card’ means an identi-
3 fication document issued by a State, Indian Tribe,
4 or local government to an individual solely for the
5 purpose of identification of that individual.

6 “(9) STATE.—The term ‘State’ means any
7 State, commonwealth, territory, or possession of the
8 United States, the District of Columbia, the Com-
9 monwealth of Puerto Rico, the Commonwealth of the
10 Northern Mariana Islands, American Samoa, Guam,
11 or the United States Virgin Islands.”.

12 (2) RULEMAKING.—

13 (A) IN GENERAL.—Not later than 1 year
14 after the date of enactment of this Act, the Sec-
15 retary of the Treasury shall issue regulations to
16 carry out this Act and the amendments made
17 by this Act, including, to the extent necessary,
18 to clarify the definitions in section 5333(d) of
19 title 31, United States Code.

20 (B) REVISION OF FINAL RULE.—Not later
21 than 1 year after the date of enactment of this
22 Act, the Secretary of the Treasury shall revise
23 the final rule titled “Customer Due Diligence
24 Requirements for Financial Institutions” (May
25 11, 2016; 81 Fed. Reg. 29397) to—

1 (i) bring the rule into conformance
2 with this Act and the amendments made
3 by this Act;

4 (ii) account for financial institutions'
5 access to comprehensive beneficial owner-
6 ship information filed by corporations and
7 limited liability companies, under threat of
8 civil and criminal penalties, under this Act
9 and the amendments made by this Act;
10 and

11 (iii) reduce any burdens on financial
12 institutions that are, in light of the enact-
13 ment of this Act and the amendments
14 made by this Act, unnecessary or duplica-
15 tive.

16 (3) CONFORMING AMENDMENTS.—Title 31,
17 United States Code, is amended—

18 (A) in section 5321(a)—

19 (i) in paragraph (1), by striking “sec-
20 tions 5314 and 5315” each place it ap-
21 pears and inserting “sections 5314, 5315,
22 and 5333”; and

23 (ii) in paragraph (6), by inserting
24 “(except section 5333)” after “sub-
25 chapter” each place it appears; and

1 (B) in section 5322, by striking “section
2 5315 or 5324” each place it appears and insert-
3 ing “section 5315, 5324, or 5333”.

4 (4) TABLE OF CONTENTS.—The table of con-
5 tents of chapter 53 of title 31, United States Code,
6 is amended by inserting after the item relating to
7 section 5332 the following:

“5333. Transparent incorporation practices.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated \$20,000,000 for each of fis-
10 cal years 2020 and 2021 to the Financial Crimes Enforce-
11 ment Network to carry out this Act and the amendments
12 made by this Act.

13 (c) FEDERAL CONTRACTORS.—Not later than the
14 first day of the first full fiscal year beginning at least 1
15 year after the date of the enactment of this Act, the Ad-
16 ministrator for Federal Procurement Policy shall revise
17 the Federal Acquisition Regulation maintained under sec-
18 tion 1303(a)(1) of title 41, United States Code, to require
19 any contractor or subcontractor who is subject to the re-
20 quirement to disclose beneficial ownership information
21 under section 5333 of title 31, United States Code, to pro-
22 vide the information required to be disclosed under such
23 section to the Federal Government as part of any bid or
24 proposal for a contract with a value threshold in excess

1 of the simplified acquisition threshold under section 134
2 of title 41, United States Code.

3 **SEC. 4. STUDIES AND REPORTS.**

4 (a) UPDATING OF BENEFICIAL OWNERSHIP INFOR-
5 MATION.—

6 (1) STUDY.—The Secretary of the Treasury, in
7 consultation with the Attorney General of the United
8 States, shall conduct a study to evaluate—

9 (A) the necessity of a requirement for cor-
10 porations and limited liability companies to up-
11 date the list of their beneficial owners within a
12 specified amount of time after the date of any
13 change in the list of beneficial owners or the in-
14 formation required to be provided relating to
15 each beneficial owner, taking into account the
16 annual filings required under section
17 5333(a)(1)(B)(i) of title 31, United States
18 Code, and the information contained in such
19 annual filings; and

20 (B) the burden that a requirement to up-
21 date the list of beneficial owners within a speci-
22 fied period of time after a change in such list
23 of beneficial owners would impose on corpora-
24 tions and limited liability companies.

1 (2) REPORT.—Not later than 1 year after the
2 date of enactment of this Act, the Secretary of the
3 Treasury shall submit a report on the study required
4 under paragraph (1) to the Committee on Financial
5 Services of the House of Representatives and the
6 Committee on Banking, Housing, and Urban Affairs
7 of the Senate.

8 (3) PUBLIC COMMENT.—The Secretary of the
9 Treasury shall seek and consider public input, com-
10 ments, and data in order to conduct the study re-
11 quired under subparagraph paragraph (1).

12 (b) OTHER LEGAL ENTITIES.—Not later than 2
13 years after the date of enactment of this Act, the Comp-
14 troller General of the United States shall conduct a study
15 and submit to the Congress a report—

16 (1) identifying each State or Indian Tribe that
17 has procedures that enable persons to form or reg-
18 ister under the laws of the State or Indian Tribe
19 partnerships, trusts, or other legal entities, and the
20 nature of those procedures;

21 (2) identifying each State or Indian Tribe that
22 requires persons seeking to form or register partner-
23 ships, trusts, or other legal entities under the laws
24 of the State or Indian Tribe to provide information
25 about the beneficial owners (as that term is defined

1 in section 5333(d)(1) of title 31, United States
2 Code, as added by this Act) or beneficiaries of such
3 entities, and the nature of the required information;

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

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

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

13 (C) increases the costs to financial institu-
14 tions of complying with due diligence require-
15 ments imposed under the Bank Secrecy Act, the
16 USA PATRIOT Act, or other applicable Fed-
17 eral, State, or Tribal law; and

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

24 (c) EFFECTIVENESS OF INCORPORATION PRAC-
25 TICES.—Not later than 5 years after the date of enact-

1 ment of this Act, the Comptroller General of the United
2 States shall conduct a study and submit to the Congress
3 a report assessing the effectiveness of incorporation prac-
4 tices implemented under this Act and the amendments
5 made by this Act in—

6 (1) providing law enforcement agencies with
7 prompt access to reliable, useful, and complete bene-
8 ficial ownership information; and

9 (2) strengthening the capability of law enforce-
10 ment agencies to combat incorporation abuses, civil
11 and criminal misconduct, and detect, prevent, or
12 punish terrorism, money laundering, tax evasion, or
13 other misconduct.

14 (d) ANNUAL REPORT ON BENEFICIAL OWNERSHIP
15 INFORMATION.—

16 (1) REPORT.—The Secretary of the Treasury
17 shall issue an annual report to the Committee on Fi-
18 nancial Services of the House of Representatives and
19 the Committee on Banking, Housing, and Urban Af-
20 fairs of the Senate with respect to the beneficial
21 ownership information collected pursuant to section
22 5333 of title 31, United States Code, that con-
23 tains—

1 (A) aggregate data on the number of bene-
 2 ficial owners per reporting corporation or lim-
 3 ited liability company;

4 (B) the industries or type of business of
 5 each reporting corporation or limited liability
 6 company; and

7 (C) the locations of the beneficial owners.

8 (2) PRIVACY.—In issuing reports under para-
 9 graph (1), the Secretary shall not reveal the identi-
 10 ties of beneficial owners or names of the reporting
 11 corporations or limited liability companies.

12 **SEC. 5. DEFINITIONS.**

13 In this Act, the terms “Bank Secrecy Act”, “bene-
 14 ficial owner”, “corporation”, and “limited liability com-
 15 pany” have the meaning given those terms, respectively,
 16 under section 5333(d) of title 31, United States Code.

17 **DIVISION B—COUNTER ACT OF** 18 **2019**

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

20 (a) SHORT TITLE.—This Act may be cited as the
 21 “Coordinating Oversight, Upgrading and Innovating
 22 Technology, and Examiner Reform Act of 2019” or the
 23 “COUNTER Act of 2019”.

24 (b) TABLE OF CONTENTS.—The table of contents for
 25 this Act is as follows:

DIVISION B—COUNTER ACT OF 2019

- Sec. 1. Short title; table of contents.
- Sec. 2. Bank Secrecy Act definition.

TITLE I—STRENGTHENING TREASURY

- Sec. 101. Improving the definition and purpose of the Bank Secrecy Act.
- Sec. 102. Special hiring authority.
- Sec. 103. Civil Liberties and Privacy Officer.
- Sec. 104. Civil Liberties and Privacy Council.
- Sec. 105. International coordination.
- Sec. 106. Treasury Attachés Program.
- Sec. 107. Increasing technical assistance for international cooperation.
- Sec. 108. FinCEN Domestic Liaisons.
- Sec. 109. FinCEN Exchange.
- Sec. 110. Study and strategy on trade-based money laundering.
- Sec. 111. Study and strategy on de-risking.
- Sec. 112. AML examination authority delegation study.
- Sec. 113. Study and strategy on Chinese money laundering.

TITLE II—IMPROVING AML/CFT OVERSIGHT

- Sec. 201. Pilot program on sharing of suspicious activity reports within a financial group.
- Sec. 202. Sharing of compliance resources.
- Sec. 203. GAO Study on feedback loops.
- Sec. 204. FinCEN study on BSA value.
- Sec. 205. Sharing of threat pattern and trend information.
- Sec. 206. Modernization and upgrading whistleblower protections.
- Sec. 207. Certain violators barred from serving on boards of United States financial institutions.
- Sec. 208. Additional damages for repeat Bank Secrecy Act violators.
- Sec. 209. Justice annual report on deferred and non-prosecution agreements.
- Sec. 210. Return of profits and bonuses.
- Sec. 211. Application of Bank Secrecy Act to dealers in antiquities.
- Sec. 212. Geographic targeting order.
- Sec. 213. Study and revisions to currency transaction reports and suspicious activity reports.
- Sec. 214. Streamlining requirements for currency transaction reports and suspicious activity reports.

TITLE III—MODERNIZING THE AML SYSTEM

- Sec. 301. Encouraging innovation in BSA compliance.
- Sec. 302. Innovation Labs.
- Sec. 303. Innovation Council.
- Sec. 304. Testing methods rulemaking.
- Sec. 305. FinCEN study on use of emerging technologies.
- Sec. 306. Discretionary surplus funds.

- 1 (c) REFERENCES TO THIS ACT.—In this division—
- 2 (1) any reference to “this Act” shall be deemed
- 3 a reference to “this division”; and

1 (2) except as otherwise expressly provided, any
 2 reference to a section or other provision shall be
 3 deemed a reference to that section or other provision
 4 of this division.

5 **SEC. 2. BANK SECRECY ACT DEFINITION.**

6 Section 5312(a) of title 31, United States Code, is
 7 amended by adding at the end the following:

8 “(7) BANK SECRECY ACT.—The term ‘Bank Se-
 9 crecy act’ means—

10 “(A) section 21 of the Federal Deposit In-
 11 surance Act;

12 “(B) chapter 2 of title I of Public Law 91–
 13 508; and

14 “(C) this subchapter.”.

15 **TITLE I—STRENGTHENING**
 16 **TREASURY**

17 **SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF**
 18 **THE BANK SECRECY ACT.**

19 Section 5311 of title 31, United States Code, is
 20 amended—

21 (1) by inserting “to protect our national secu-
 22 rity, to safeguard the integrity of the international
 23 financial system, and” before “to require”; and

24 (2) by inserting “to law enforcement and” be-
 25 fore “in criminal”.

1 **SEC. 102. SPECIAL HIRING AUTHORITY.**

2 (a) IN GENERAL.—Section 310 of title 31, United
3 States Code, is amended—

4 (1) by redesignating subsection (d) as sub-
5 section (g); and

6 (2) by inserting after subsection (c) the fol-
7 lowing:

8 “(d) SPECIAL HIRING AUTHORITY.—

9 “(1) IN GENERAL.—The Secretary of the
10 Treasury may appoint, without regard to the provi-
11 sions of sections 3309 through 3318 of title 5, can-
12 didates directly to positions in the competitive serv-
13 ice (as defined in section 2102 of that title) in
14 FinCEN.

15 “(2) PRIMARY RESPONSIBILITIES.—The pri-
16 mary responsibility of candidates appointed pursuant
17 to paragraph (1) shall be to provide substantive sup-
18 port in support of the duties described in subpara-
19 graphs (A), (B), (E), and (F) of subsection (b)(2).”.

20 (b) REPORT.—Not later than 360 days after the date
21 of enactment of this Act, and every year thereafter for
22 7 years, the Director of the Financial Crimes Enforcement
23 Network shall submit a report to the Committee on Finan-
24 cial Services of the House of Representatives and the
25 Committee on Banking, Housing, and Urban Affairs of
26 the Senate that includes—

1 (1) the number of new employees hired since
2 the preceding report through the authorities de-
3 scribed under section 310(d) of title 31, United
4 States Code, along with position titles and associ-
5 ated pay grades for such hires; and

6 (2) a copy of any Federal Government survey of
7 staff perspectives at the Office of Terrorism and Fi-
8 nancial Intelligence, including findings regarding the
9 Office and the Financial Crimes Enforcement Net-
10 work from the most recently administered Federal
11 Employee Viewpoint Survey.

12 **SEC. 103. CIVIL LIBERTIES AND PRIVACY OFFICER.**

13 (a) APPOINTMENT OF OFFICERS.—Not later than the
14 end of the 3-month period beginning on the date of enact-
15 ment of this Act, a Civil Liberties and Privacy Officer
16 shall be appointed, from among individuals who are attor-
17 neys with expertise in data privacy laws—

18 (1) within each Federal functional regulator, by
19 the head of the Federal functional regulator;

20 (2) within the Financial Crimes Enforcement
21 Network, by the Secretary of the Treasury; and

22 (3) within the Internal Revenue Service Small
23 Business and Self-Employed Tax Center, by the Sec-
24 retary of the Treasury.

1 (b) DUTIES.—Each Civil Liberties and Privacy Offi-
2 cer shall, with respect to the applicable regulator, Net-
3 work, or Center within which the Officer is located—

4 (1) be consulted each time Bank Secrecy Act or
5 anti-money laundering regulations affecting civil lib-
6 erties or privacy are developed or reviewed;

7 (2) be consulted on information-sharing pro-
8 grams, including those that provide access to person-
9 ally identifiable information;

10 (3) ensure coordination and clarity between
11 anti-money laundering, civil liberties, and privacy
12 regulations;

13 (4) contribute to the evaluation and regulation
14 of new technologies that may strengthen data pri-
15 vacy and the protection of personally identifiable in-
16 formation collected by each Federal functional regu-
17 lator; and

18 (5) develop metrics of program success.

19 (c) DEFINITIONS.—For purposes of this section:

20 (1) BANK SECRECY ACT.—The term “Bank Se-
21 crecy Act” has the meaning given that term under
22 section 5312 of title 31, United States Code.

23 (2) FEDERAL FUNCTIONAL REGULATOR.—The
24 term “Federal functional regulator” means the
25 Board of Governors of the Federal Reserve System,

1 the Comptroller of the Currency, the Federal De-
2 posit Insurance Corporation, the National Credit
3 Union Administration, the Securities and Exchange
4 Commission, and the Commodity Futures Trading
5 Commission.

6 **SEC. 104. CIVIL LIBERTIES AND PRIVACY COUNCIL.**

7 (a) ESTABLISHMENT.—There is established the Civil
8 Liberties and Privacy Council (hereinafter in this section
9 referred to as the “Council”), which shall consist of the
10 Civil Liberties and Privacy Officers appointed pursuant to
11 section 103.

12 (b) CHAIR.—The Director of the Financial Crimes
13 Enforcement Network shall serve as the Chair of the
14 Council.

15 (c) DUTY.—The members of the Council shall coordi-
16 nate on activities related to their duties as Civil Liberties
17 Privacy Officers, but may not supplant the individual
18 agency determinations on civil liberties and privacy.

19 (d) MEETINGS.—The meetings of the Council—

20 (1) shall be at the call of the Chair, but in no
21 case may the Council meet less than quarterly;

22 (2) may include open and partially closed ses-
23 sions, as determined necessary by the Council; and

24 (3) shall include participation by public and pri-
25 vate entities and law enforcement agencies.

1 (e) REPORT.—The Chair of the Council shall issue
2 an annual report to the Congress on the program and pol-
3 icy activities, including the success of programs as meas-
4 ured by metrics of program success developed pursuant
5 to section 103(b)(5), of the Council during the previous
6 year and any legislative recommendations that the Council
7 may have.

8 (f) NONAPPLICABILITY OF FACA.—The Federal Ad-
9 visory Committee Act (5 U.S.C. App.) shall not apply to
10 the Council.

11 **SEC. 105. INTERNATIONAL COORDINATION.**

12 (a) IN GENERAL.—The Secretary of the Treasury
13 shall work with the Secretary’s foreign counterparts, in-
14 cluding through the Financial Action Task Force, the
15 International Monetary Fund, the World Bank, the
16 Egmont Group of Financial Intelligence Units, the
17 Organisation for Economic Co-operation and Develop-
18 ment, and the United Nations, to promote stronger anti-
19 money laundering frameworks and enforcement of anti-
20 money laundering laws.

21 (b) COOPERATION GOAL.—In carrying out subsection
22 (a), the Secretary of the Treasury may work directly with
23 foreign counterparts and other organizations where the
24 goal of cooperation can best be met.

25 (c) INTERNATIONAL MONETARY FUND.—

1 (1) SUPPORT FOR CAPACITY OF THE INTER-
2 NATIONAL MONETARY FUND TO PREVENT MONEY
3 LAUNDERING AND FINANCING OF TERRORISM.—
4 Title XVI of the International Financial Institutions
5 Act (22 U.S.C. 262p et seq.) is amended by adding
6 at the end the following:

7 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
8 **NATIONAL MONETARY FUND TO PREVENT**
9 **MONEY LAUNDERING AND FINANCING OF**
10 **TERRORISM.**

11 “The Secretary of the Treasury shall instruct the
12 United States Executive Director at the International
13 Monetary Fund to support the increased use of the admin-
14 istrative budget of the Fund for technical assistance that
15 strengthens the capacity of Fund members to prevent
16 money laundering and the financing of terrorism.”.

17 (2) NATIONAL ADVISORY COUNCIL REPORT TO
18 CONGRESS.—The Chairman of the National Advisory
19 Council on International Monetary and Financial
20 Policies shall include in the report required by sec-
21 tion 1701 of the International Financial Institutions
22 Act (22 U.S.C. 262r) a description of—

23 (A) the activities of the International Mon-
24 etary Fund in the most recently completed fis-
25 cal year to provide technical assistance that

1 strengthens the capacity of Fund members to
 2 prevent money laundering and the financing of
 3 terrorism, and the effectiveness of the assist-
 4 ance; and

5 (B) the efficacy of efforts by the United
 6 States to support such technical assistance
 7 through the use of the Fund’s administrative
 8 budget, and the level of such support.

9 (3) SUNSET.—Effective on the date that is the
 10 end of the 4-year period beginning on the date of en-
 11 actment of this Act, section 1629 of the Inter-
 12 national Financial Institutions Act, as added by
 13 paragraph (1), is repealed.

14 **SEC. 106. TREASURY ATTACHÉS PROGRAM.**

15 (a) IN GENERAL.—Title 31, United States Code, is
 16 amended by inserting after section 315 the following:

17 **“§ 316. Treasury Attachés Program**

18 “(a) IN GENERAL.—There is established the Treas-
 19 ury Attachés Program, under which the Secretary of the
 20 Treasury shall appoint employees of the Department of
 21 the Treasury, after nomination by the Director of the Fi-
 22 nancial Crimes Enforcement Network (‘FinCEN’), as a
 23 Treasury attaché, who shall—

24 “(1) be knowledgeable about the Bank Secrecy
 25 Act and anti-money laundering issues;

1 “(2) be co-located in a United States embassy;

2 “(3) perform outreach with respect to Bank Se-
3 crecy Act and anti-money laundering issues;

4 “(4) establish and maintain relationships with
5 foreign counterparts, including employees of min-
6 istries of finance, central banks, and other relevant
7 official entities;

8 “(5) conduct outreach to local and foreign fi-
9 nancial institutions and other commercial actors, in-
10 cluding—

11 “(A) information exchanges through
12 FinCEN and FinCEN programs; and

13 “(B) soliciting buy-in and cooperation for
14 the implementation of—

15 “(i) United States and multilateral
16 sanctions; and

17 “(ii) international standards on anti-
18 money laundering and the countering of
19 the financing of terrorism; and

20 “(6) perform such other actions as the Sec-
21 retary determines appropriate.

22 “(b) NUMBER OF ATTACHÉS.—The number of Treas-
23 ury attachés appointed under this section at any one time
24 shall be not fewer than 6 more employees than the number

1 of employees of the Department of the Treasury serving
 2 as Treasury attachés on March 1, 2019.

3 “(c) COMPENSATION.—Each Treasury attaché ap-
 4 pointed under this section and located at a United States
 5 embassy shall receive compensation at the higher of—

6 “(1) the rate of compensation provided to a
 7 Foreign Service officer at a comparable career level
 8 serving at the same embassy; or

9 “(2) the rate of compensation the Treasury
 10 attaché would otherwise have received, absent the
 11 application of this subsection.

12 “(d) BANK SECRECY ACT DEFINED.—In this section,
 13 the term ‘Bank Secrecy Act’ has the meaning given that
 14 term under section 5312.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
 16 for chapter 3 of title 31, United States Code, is amended
 17 by inserting after the item relating to section 315 the fol-
 18 lowing:

“316. Treasury Attachés Program.”.

19 **SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR**
 20 **INTERNATIONAL COOPERATION.**

21 (a) IN GENERAL.—There is authorized to be appro-
 22 priated for each of fiscal years 2020 through 2024 to the
 23 Secretary of the Treasury for purposes of providing tech-
 24 nical assistance that promotes compliance with inter-
 25 national standards and best practices, including in par-

1 ticular those aimed at the establishment of effective anti-
2 money laundering and countering the financing of ter-
3 rorism regimes, in an amount equal to twice the amount
4 authorized for such purpose for fiscal year 2019.

5 (b) ACTIVITY AND EVALUATION REPORT.—Not later
6 than 360 days after enactment of this Act, and every year
7 thereafter for five years, the Secretary of the Treasury
8 shall issue a report to the Congress on the assistance (as
9 described under subsection (a)) of the Office of Technical
10 Assistance of the Department of the Treasury con-
11 taining—

12 (1) a narrative detailing the strategic goals of
13 the Office in the previous year, with an explanation
14 of how technical assistance provided in the previous
15 year advances the goals;

16 (2) a description of technical assistance pro-
17 vided by the Office in the previous year, including
18 the objectives and delivery methods of the assist-
19 ance;

20 (3) a list of beneficiaries and providers (other
21 than Office staff) of the technical assistance;

22 (4) a description of how technical assistance
23 provided by the Office complements, duplicates, or
24 otherwise affects or is affected by technical assist-
25 ance provided by the international financial institu-

1 tions (as defined under section 1701(c) of the Inter-
 2 national Financial Institutions Act); and

3 (5) a copy of any Federal Government survey of
 4 staff perspectives at the Office of Technical Assist-
 5 ance, including any findings regarding the Office
 6 from the most recently administered Federal Em-
 7 ployee Viewpoint Survey.

8 **SEC. 108. FINCEN DOMESTIC LIAISONS.**

9 Section 310 of title 31, United States Code, as
 10 amended by section 102, is further amended by inserting
 11 after subsection (d) the following:

12 “(e) FINCEN DOMESTIC LIAISONS.—

13 “(1) IN GENERAL.—The Director of FinCEN
 14 shall appoint at least 6 senior FinCEN employees as
 15 FinCEN Domestic Liaisons, who shall—

16 “(A) each be assigned to focus on a spe-
 17 cific region of the United States;

18 “(B) be located at an office in such region
 19 (or co-located at an office of the Board of Gov-
 20 ernors of the Federal Reserve System in such
 21 region); and

22 “(C) perform outreach to BSA officers at
 23 financial institutions (including non-bank finan-
 24 cial institutions) and persons who are not finan-
 25 cial institutions, especially with respect to ac-

1 tions taken by FinCEN that require specific ac-
 2 tions by, or have specific effects on, such insti-
 3 tutions or persons, as determined by the Direc-
 4 tor.

5 “(2) DEFINITIONS.—In this subsection:

6 “(A) BSA OFFICER.—The term ‘BSA offi-
 7 cer’ means an employee of a financial institu-
 8 tion whose primary job responsibility involves
 9 compliance with the Bank Secrecy Act, as such
 10 term is defined under section 5312.

11 “(B) FINANCIAL INSTITUTION.—The term
 12 ‘financial institution’ has the meaning given
 13 that term under section 5312.”.

14 **SEC. 109. FINCEN EXCHANGE.**

15 Section 310 of title 31, United States Code, as
 16 amended by section 108, is further amended by inserting
 17 after subsection (e) the following:

18 “(f) FINCEN EXCHANGE.—

19 “(1) ESTABLISHMENT.—The FinCEN Ex-
 20 change is hereby established within FinCEN, which
 21 shall consist of the FinCEN Exchange program of
 22 FinCEN in existence on the day before the date of
 23 enactment of this paragraph.

24 “(2) PURPOSE.—The FinCEN Exchange shall
 25 facilitate a voluntary public-private information

1 sharing partnership among law enforcement, finan-
2 cial institutions, and FinCEN to—

3 “(A) effectively and efficiently combat
4 money laundering, terrorism financing, orga-
5 nized crime, and other financial crimes;

6 “(B) protect the financial system from il-
7 licit use; and

8 “(C) promote national security.

9 “(3) REPORT.—

10 “(A) IN GENERAL.—Not later than one
11 year after the date of enactment of this sub-
12 section, and annually thereafter for the next
13 five years, the Secretary of the Treasury shall
14 submit to the Committee on Financial Services
15 of the House of Representatives and the Com-
16 mittee on Banking, Housing, and Urban Affairs
17 of the Senate a report containing—

18 “(i) an analysis of the efforts under-
19 taken by the FinCEN Exchange and the
20 results of such efforts;

21 “(ii) an analysis of the extent and ef-
22 fectiveness of the FinCEN Exchange, in-
23 cluding any benefits realized by law en-
24 forcement from partnership with financial
25 institutions; and

1 “(iii) any legislative, administrative,
2 or other recommendations the Secretary
3 may have to strengthen FinCEN Exchange
4 efforts.

5 “(B) CLASSIFIED ANNEX.—Each report
6 under subparagraph (A) may include a classi-
7 fied annex.

8 “(4) INFORMATION SHARING REQUIREMENT.—
9 Information shared pursuant to this subsection shall
10 be shared in compliance with all other applicable
11 Federal laws and regulations.

12 “(5) RULE OF CONSTRUCTION.—Nothing under
13 this subsection may be construed to create new in-
14 formation sharing authorities related to the Bank
15 Secrecy Act (as such term is defined under section
16 5312 of title 31, United States Code).

17 “(6) FINANCIAL INSTITUTION DEFINED.—In
18 this subsection, the term ‘financial institution’ has
19 the meaning given that term under section 5312.”.

20 **SEC. 110. STUDY AND STRATEGY ON TRADE-BASED MONEY**
21 **LAUNDERING.**

22 (a) STUDY.—The Secretary of the Treasury shall
23 carry out a study, in consultation with appropriate private
24 sector stakeholders and Federal departments and agen-
25 cies, on trade-based money laundering.

1 (b) REPORT.—Not later than the end of the 1-year
2 period beginning on the date of the enactment of this Act,
3 the Secretary shall issue a report to the Congress con-
4 taining—

5 (1) all findings and determinations made in car-
6 rying out the study required under subsection (a);
7 and

8 (2) proposed strategies to combat trade-based
9 money laundering.

10 (c) CLASSIFIED ANNEX.—The report required under
11 this section may include a classified annex.

12 (d) CONTRACTING AUTHORITY.—The Secretary may
13 contract with a private third-party to carry out the study
14 required under this section. The authority of the Secretary
15 to enter into contracts under this subsection shall be in
16 effect for each fiscal year only to the extent and in the
17 amounts as are provided in advance in appropriations
18 Acts.

19 **SEC. 111. STUDY AND STRATEGY ON DE-RISKING.**

20 (a) REVIEW.—The Secretary of the Treasury, in con-
21 sultation with appropriate private sector stakeholders, ex-
22 aminers, and the Federal functional regulators (as defined
23 under section 103) and other relevant stakeholders, shall
24 undertake a formal review of—

1 (1) any adverse consequences of financial insti-
2 tutions de-risking entire categories of relationships,
3 including charities, embassy accounts, money serv-
4 ices businesses (as defined under section
5 1010.100(ff) of title 31, Code of Federal Regula-
6 tions) and their agents, countries, international and
7 domestic regions, and respondent banks;

8 (2) the reasons why financial institutions are
9 engaging in de-risking;

10 (3) the association with and effects of de-risk-
11 ing on money laundering and financial crime actors
12 and activities;

13 (4) the most appropriate ways to promote fi-
14 nancial inclusion, particularly with respect to devel-
15 oping countries, while maintaining compliance with
16 the Bank Secrecy Act, including an assessment of
17 policy options to—

18 (A) more effectively tailor Federal actions
19 and penalties to the size of foreign financial in-
20 stitutions and any capacity limitations of for-
21 eign governments; and

22 (B) reduce compliance costs that may lead
23 to the adverse consequences described in para-
24 graph (1);

1 (5) formal and informal feedback provided by
2 examiners that may have led to de-risking;

3 (6) the relationship between resources dedicated
4 to compliance and overall sophistication of compli-
5 ance efforts at entities that may be experiencing de-
6 risking versus those that have not experienced de-
7 risking; and

8 (7) any best practices from the private sector
9 that facilitate correspondent bank relationships.

10 (b) DE-RISKING STRATEGY.—The Secretary shall de-
11 velop a strategy to reduce de-risking and adverse con-
12 sequences related to de-risking.

13 (c) REPORT.—Not later than the end of the 1-year
14 period beginning on the date of the enactment of this Act,
15 the Secretary, in consultation with the Federal functional
16 regulators and other relevant stakeholders, shall issue a
17 report to the Congress containing—

18 (1) all findings and determinations made in car-
19 rying out the study required under subsection (a);
20 and

21 (2) the strategy developed pursuant to sub-
22 section (b).

23 (d) DEFINITIONS.—In this section:

24 (1) DE-RISKING.—The term “de-risking”
25 means the wholesale closing of accounts or limiting

1 of financial services for a category of customer due
2 to unsubstantiated risk as it relates to compliance
3 with the Bank Secrecy Act.

4 (2) BSA TERMS.—The terms “Bank Secrecy
5 Act” and “financial institution” have the meaning
6 given those terms, respectively, under section 5312
7 off title 31, United States Code.

8 **SEC. 112. AML EXAMINATION AUTHORITY DELEGATION**
9 **STUDY.**

10 (a) STUDY.—The Secretary of the Treasury shall
11 carry out a study on the Secretary’s delegation of exam-
12 ination authority under the Bank Secrecy Act, including—

13 (1) an evaluation of the efficacy of the delega-
14 tion, especially with respect to the mission of the
15 Bank Secrecy Act;

16 (2) whether the delegated agencies have appro-
17 priate resources to perform their delegated respon-
18 sibilities; and

19 (3) whether the examiners in delegated agencies
20 have sufficient training and support to perform their
21 responsibilities.

22 (b) REPORT.—Not later than one year after the date
23 of enactment of this Act, the Secretary of the Treasury
24 shall submit to the Committee on Financial Services of
25 the House of Representatives and the Committee on

1 Banking, Housing, and Urban Affairs of the Senate a re-
2 port containing—

3 (1) all findings and determinations made in car-
4 rying out the study required under subsection (a);
5 and

6 (2) recommendations to improve the efficacy of
7 delegation authority, including the potential for de-
8 legation of any or all such authority where it may
9 be appropriate.

10 (c) BANK SECRECY ACT DEFINED.—The term
11 “Bank Secrecy Act” has the meaning given that term
12 under section 5312 off title 31, United States Code.

13 **SEC. 113. STUDY AND STRATEGY ON CHINESE MONEY**
14 **LAUNDERING.**

15 (a) STUDY.—The Secretary of the Treasury shall
16 carry out a study on the extent and effect of Chinese
17 money laundering activities in the United States, including
18 territories and possessions of the United States, and
19 worldwide.

20 (b) STRATEGY TO COMBAT CHINESE MONEY LAUN-
21 DERING.—Upon the completion of the study required
22 under subsection (a), the Secretary shall, in consultation
23 with such other Federal departments and agencies as the
24 Secretary determines appropriate, develop a strategy to
25 combat Chinese money laundering activities.

1 (c) REPORT.—Not later than the end of the 1-year
 2 period beginning on the date of enactment of this Act, the
 3 Secretary of the Treasury shall issue a report to Congress
 4 containing—

5 (1) all findings and determinations made in car-
 6 rying out the study required under subsection (a);
 7 and

8 (2) the strategy developed under subsection (b).

9 **TITLE II—IMPROVING AML/CFT** 10 **OVERSIGHT**

11 **SEC. 201. PILOT PROGRAM ON SHARING OF SUSPICIOUS** 12 **ACTIVITY REPORTS WITHIN A FINANCIAL** 13 **GROUP.**

14 (a) IN GENERAL.—

15 (1) SHARING WITH FOREIGN BRANCHES AND
 16 AFFILIATES.—Section 5318(g) of title 31, United
 17 States Code, is amended by adding at the end the
 18 following:

19 “(5) PILOT PROGRAM ON SHARING WITH FOR-
 20 EIGN BRANCHES, SUBSIDIARIES, AND AFFILIATES.—

21 “(A) IN GENERAL.—The Secretary of the
 22 Treasury shall issue rules establishing the pilot
 23 program described under subparagraph (B),
 24 subject to such controls and restrictions as the
 25 Director of the Financial Crimes Enforcement

1 Network determines appropriate, including con-
2 trols and restrictions regarding participation by
3 financial institutions and jurisdictions in the
4 pilot program. In prescribing such rules, the
5 Secretary shall ensure that the sharing of infor-
6 mation described under such subparagraph (B)
7 is subject to appropriate standards and require-
8 ments regarding data security and the confiden-
9 tiality of personally identifiable information.

10 “(B) PILOT PROGRAM DESCRIBED.—The
11 pilot program required under this paragraph
12 shall—

13 “(i) permit a financial institution with
14 a reporting obligation under this sub-
15 section to share reports (and information
16 on such reports) under this subsection with
17 the institution’s foreign branches, subsidi-
18 aries, and affiliates for the purpose of com-
19 bating illicit finance risks, notwithstanding
20 any other provision of law except subpara-
21 graphs (A) and (C);

22 “(ii) terminate on the date that is five
23 years after the date of enactment of this
24 paragraph, except that the Secretary may
25 extend the pilot program for up to two

1 years upon submitting a report to the
2 Committee on Financial Services of the
3 House of Representatives and the Com-
4 mittee on Banking, Housing, and Urban
5 Affairs of the Senate that includes—

6 “(I) a certification that the ex-
7 tension is in the national interest of
8 the United States, with a detailed ex-
9 planation of the reasons therefor;

10 “(II) an evaluation of the useful-
11 ness of the pilot program, including a
12 detailed analysis of any illicit activity
13 identified or prevented as a result of
14 the program; and

15 “(III) a detailed legislative pro-
16 posal providing for a long-term exten-
17 sion of the pilot program activities, in-
18 cluding expected budgetary resources
19 for the activities, if the Secretary de-
20 termines that a long-term extension is
21 appropriate.

22 “(C) PROHIBITION INVOLVING CERTAIN
23 JURISDICTIONS.—In issuing the regulations re-
24 quired under subparagraph (A), the Secretary
25 may not permit a financial institution to share

1 information on reports under this subsection
2 with a foreign branch, subsidiary, or affiliate lo-
3 cated in—

4 “(i) the People’s Republic of China;

5 “(ii) the Russian Federation; or

6 “(iii) a jurisdiction that—

7 “(I) is subject to counter-
8 measures imposed by the Federal
9 Government;

10 “(II) is a state sponsor of ter-
11 rorism; or

12 “(III) the Secretary has deter-
13 mined cannot reasonably protect the
14 privacy and confidentiality of such in-
15 formation or would otherwise use such
16 information in a manner that is not
17 consistent with the national interest of
18 the United States.

19 “(D) IMPLEMENTATION UPDATES.—Not
20 later than 360 days after the date rules are
21 issued under subparagraph (A), and annually
22 thereafter for three years, the Secretary, or the
23 Secretary’s designee, shall brief the Committee
24 on Financial Services of the House of Rep-

1 representatives and the Committee on Banking,
2 Housing, and Urban Affairs of the Senate on—

3 “(i) the degree of any information
4 sharing permitted under the pilot program,
5 and a description of criteria used by the
6 Secretary to evaluate the appropriateness
7 of the information sharing;

8 “(ii) the effectiveness of the pilot pro-
9 gram in identifying or preventing the viola-
10 tion of a United States law or regulation,
11 and mechanisms that may improve such ef-
12 fectiveness; and

13 “(iii) any recommendations to amend
14 the design of the pilot program.

15 “(E) RULE OF CONSTRUCTION.—Nothing
16 in this paragraph shall be construed as limiting
17 the Secretary’s authority under provisions of
18 law other than this paragraph to establish other
19 permissible purposes or methods for a financial
20 institution sharing reports (and information on
21 such reports) under this subsection with the in-
22 stitution’s foreign headquarters or with other
23 branches of the same institution.

24 “(F) NOTICE OF USE OF OTHER AUTHOR-
25 ITY.—If the Secretary, pursuant to any author-

ity other than that provided under this paragraph, permits a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in a foreign jurisdiction, the Secretary shall notify the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of such permission and the applicable foreign jurisdiction.

“(6) TREATMENT OF FOREIGN JURISDICTION-ORIGINATED REPORTS.—A report received by a financial institution from a foreign affiliate with respect to a suspicious transaction relevant to a possible violation of law or regulation shall be subject to the same confidentiality requirements provided under this subsection for a report of a suspicious transaction described under paragraph (1).”.

(2) NOTIFICATION PROHIBITIONS.—Section 5318(g)(2)(A) of title 31, United States Code, is amended—

(A) in clause (i), by inserting after “transaction has been reported” the following: “or otherwise reveal any information that would re-

1 veal that the transaction has been reported”;
2 and

3 (B) in clause (ii), by inserting after “trans-
4 action has been reported,” the following: “or
5 otherwise reveal any information that would re-
6 veal that the transaction has been reported,”.

7 (b) RULEMAKING.—Not later than the end of the
8 360-day period beginning on the date of enactment of this
9 Act, the Secretary of the Treasury shall issue regulations
10 to carry out the amendments made by this section.

11 **SEC. 202. SHARING OF COMPLIANCE RESOURCES.**

12 (a) IN GENERAL.—Section 5318 of title 31, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 “(o) SHARING OF COMPLIANCE RESOURCES.—

16 “(1) SHARING PERMITTED.—Two or more fi-
17 nancial institutions may enter into collaborative ar-
18 rangements in order to more efficiently comply with
19 the requirements of this subchapter.

20 “(2) OUTREACH.—The Secretary of the Treas-
21 ury and the appropriate supervising agencies shall
22 carry out an outreach program to provide financial
23 institutions with information, including best prac-
24 tices, with respect to the sharing of resources de-
25 scribed under paragraph (1).”.

1 (b) RULE OF CONSTRUCTION.—The amendment
2 made by subsection (a) may not be construed to require
3 financial institutions to share resources.

4 **SEC. 203. GAO STUDY ON FEEDBACK LOOPS.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall carry out a study on—

7 (1) best practices within the United States Gov-
8 ernment for providing feedback (“feedback loop”) to
9 relevant parties (including regulated private entities)
10 on the usage and usefulness of personally identifi-
11 able information (“PII”), sensitive-but-unclassified
12 (“SBU”) data, or similar information provided by
13 such parties to Government users of such informa-
14 tion and data (including law enforcement or regu-
15 lators); and

16 (2) any practices or standards inside or outside
17 the United States for providing feedback through
18 sensitive information and public-private partnership
19 information sharing efforts, specifically related to ef-
20 forts to combat money laundering and other forms
21 of illicit finance.

22 (b) REPORT.—Not later than the end of the 18-
23 month period beginning on the date of the enactment of
24 this Act, the Comptroller General shall issue a report to
25 the Committee on Banking, Housing, and Urban Affairs

1 of the Senate and the Committee on Financial Services
2 of the House of Representatives containing—

3 (1) all findings and determinations made in car-
4 rying out the study required under subsection (a);

5 (2) with respect to each of paragraphs (1) and
6 (2) of subsection (a), any best practices or signifi-
7 cant concerns identified by the Comptroller General,
8 and their applicability to public-private partnerships
9 and feedback loops with respect to U.S. efforts to
10 combat money laundering and other forms of illicit
11 finance; and

12 (3) recommendations to reduce or eliminate any
13 unnecessary Government collection of the informa-
14 tion described under subsection (a)(1).

15 **SEC. 204. FINCEN STUDY ON BSA VALUE.**

16 (a) STUDY.—The Director of the Financial Crimes
17 Enforcement Network shall carry out a study on Bank Se-
18 crecy Act value.

19 (b) REPORT.—Not later than the end of the 30-day
20 period beginning on the date the study under subsection
21 (a) is completed, the Director shall issue a report to the
22 Committee on Financial Services of the House of Rep-
23 resentatives and the Committee on Banking, Housing, and
24 Urban Affairs of the Senate containing all findings and

1 determinations made in carrying out the study required
2 under this section.

3 (c) CLASSIFIED ANNEX.—The report required under
4 this section may include a classified annex, if the Director
5 determines it appropriate.

6 (d) BANK SECRECY ACT DEFINED.—For purposes of
7 this section, the term “Bank Secrecy Act” has the mean-
8 ing given that term under section 5312 of title 31, United
9 States Code.

10 **SEC. 205. SHARING OF THREAT PATTERN AND TREND IN-**
11 **FORMATION.**

12 Section 5318(g) of title 31, United States Code, as
13 amended by section 201(a)(1), is further amended by add-
14 ing at the end the following:

15 “(7) SHARING OF THREAT PATTERN AND
16 TREND INFORMATION.—

17 “(A) SAR ACTIVITY REVIEW.—The Direc-
18 tor of the Financial Crimes Enforcement Net-
19 work shall restart publication of the ‘SAR Ac-
20 tivity Review – Trends, Tips & Issues’, on not
21 less than a semi-annual basis, to provide mean-
22 ingful information about the preparation, use,
23 and value of reports filed under this subsection
24 by financial institutions, as well as other re-

ports filed by financial institutions under the Bank Secrecy Act.

“(B) INCLUSION OF TYPOLOGIES.—In each publication described under subparagraph (A), the Director shall provide financial institutions with typologies, including data that can be adapted in algorithms (including for artificial intelligence and machine learning programs) where appropriate, on emerging money laundering and counter terror financing threat patterns and trends.

“(C) TYPOLOGY DEFINED.—For purposes of this paragraph, the term ‘typology’ means the various techniques used to launder money or finance terrorism.”.

SEC. 206. MODERNIZATION AND UPGRADING WHISTLE-BLOWER PROTECTIONS.

(a) REWARDS.—Section 5323(d) of title 31, United States Code, is amended to read as follows:

“(d) SOURCE OF REWARDS.—For the purposes of paying a reward under this section, the Secretary may, subject to amounts made available in advance by appropriation Acts, use criminal fine, civil penalty, or forfeiture amounts recovered based on the original information with respect to which the reward is being paid.”.

1 (b) WHISTLEBLOWER INCENTIVES.—Chapter 53 of
2 title 31, United States Code, is amended—

3 (1) by inserting after section 5323 the fol-
4 lowing:

5 **“§ 5323A. Whistleblower incentives**

6 “(a) DEFINITIONS.—In this section:

7 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
8 ACTION.—The term ‘covered judicial or administra-
9 tive action’ means any judicial or administrative ac-
10 tion brought by FinCEN under the Bank Secrecy
11 Act that results in monetary sanctions exceeding
12 \$1,000,000.

13 “(2) FINCEN.—The term ‘FinCEN’ means the
14 Financial Crimes Enforcement Network.

15 “(3) MONETARY SANCTIONS.—The term ‘mone-
16 tary sanctions’, when used with respect to any judi-
17 cial or administrative action, means—

18 “(A) any monies, including penalties,
19 disgorgement, and interest, ordered to be paid;
20 and

21 “(B) any monies deposited into a
22 disgorgement fund as a result of such action or
23 any settlement of such action.

24 “(4) ORIGINAL INFORMATION.—The term
25 ‘original information’ means information that—

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

3 “(B) is not known to FinCEN from any
4 other source, unless the whistleblower is the
5 original source of the information; and

6 “(C) is not exclusively derived from an al-
7 legation made in a judicial or administrative
8 hearing, in a governmental report, hearing,
9 audit, or investigation, or from the news media,
10 unless the whistleblower is a source of the infor-
11 mation.

12 “(5) RELATED ACTION.—The term ‘related ac-
13 tion’, when used with respect to any judicial or ad-
14 ministrative action brought by FinCEN, means any
15 judicial or administrative action that is based upon
16 original information provided by a whistleblower that
17 led to the successful enforcement of the action.

18 “(6) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of the Treasury.

20 “(7) WHISTLEBLOWER.—The term ‘whistle-
21 blower’ means any individual who provides, or 2 or
22 more individuals acting jointly who provide, informa-
23 tion relating to a violation of laws enforced by
24 FinCEN, in a manner established, by rule or regula-
25 tion, by FinCEN.

1 “(b) AWARDS.—

2 “(1) IN GENERAL.—In any covered judicial or
3 administrative action, or related action, the Sec-
4 retary, under such rules as the Secretary may issue
5 and subject to subsection (c), shall pay an award or
6 awards to 1 or more whistleblowers who voluntarily
7 provided original information to FinCEN that led to
8 the successful enforcement of the covered judicial or
9 administrative action, or related action, in an aggre-
10 gate amount equal to not more than 30 percent, in
11 total, of what has been collected of the monetary
12 sanctions imposed in the action.

13 “(2) SOURCE OF AWARDS.—For the purposes of
14 paying any award under paragraph (1), the Sec-
15 retary may, subject to amounts made available in
16 advance by appropriation Acts, use monetary sanc-
17 tion amounts recovered based on the original infor-
18 mation with respect to which the award is being
19 paid.

20 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
21 NIAL OF AWARD.—

22 “(1) DETERMINATION OF AMOUNT OF
23 AWARD.—

1 “(A) DISCRETION.—The determination of
2 the amount of an award made under subsection
3 (b) shall be in the discretion of the Secretary.

4 “(B) CRITERIA.—In responding to a dis-
5 closure and determining the amount of an
6 award made, FinCEN staff shall meet with the
7 whistleblower to discuss evidence disclosed and
8 rebuttals to the disclosure, and shall take into
9 consideration—

10 “(i) the significance of the informa-
11 tion provided by the whistleblower to the
12 success of the covered judicial or adminis-
13 trative action;

14 “(ii) the degree of assistance provided
15 by the whistleblower and any legal rep-
16 resentative of the whistleblower in a cov-
17 ered judicial or administrative action;

18 “(iii) the mission of FinCEN in deter-
19 ring violations of the law by making
20 awards to whistleblowers who provide in-
21 formation that lead to the successful en-
22 forcement of such laws; and

23 “(iv) such additional relevant factors
24 as the Secretary may establish by rule.

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

3 “(A) to any whistleblower who is, or was at
4 the time the whistleblower acquired the original
5 information submitted to FinCEN, a member,
6 officer, or employee of—

7 “(i) an appropriate regulatory agency;

8 “(ii) the Department of Justice;

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

10 “(iv) a law enforcement organization;

11 “(B) to any whistleblower who is convicted
12 of a criminal violation, or who the Secretary
13 has a reasonable basis to believe committed a
14 criminal violation, related to the judicial or ad-
15 ministrative action for which the whistleblower
16 otherwise could receive an award under this sec-
17 tion;

18 “(C) to any whistleblower who gains the
19 information through the performance of an
20 audit of financial statements required under the
21 Bank Secrecy Act and for whom such submis-
22 sion would be contrary to its requirements; or

23 “(D) to any whistleblower who fails to sub-
24 mit information to FinCEN in such form as the
25 Secretary may, by rule, require.

1 “(3) STATEMENT OF REASONS.—For any deci-
2 sion granting or denying an award, the Secretary
3 shall provide to the whistleblower a statement of rea-
4 sons that includes findings of fact and conclusions of
5 law for all material issues.

6 “(d) REPRESENTATION.—

7 “(1) PERMITTED REPRESENTATION.—Any
8 whistleblower who makes a claim for an award under
9 subsection (b) may be represented by counsel.

10 “(2) REQUIRED REPRESENTATION.—

11 “(A) IN GENERAL.—Any whistleblower
12 who anonymously makes a claim for an award
13 under subsection (b) shall be represented by
14 counsel if the whistleblower anonymously sub-
15 mits the information upon which the claim is
16 based.

17 “(B) DISCLOSURE OF IDENTITY.—Prior to
18 the payment of an award, a whistleblower shall
19 disclose their identity and provide such other
20 information as the Secretary may require, di-
21 rectly or through counsel for the whistleblower.

22 “(e) APPEALS.—Any determination made under this
23 section, including whether, to whom, or in what amount
24 to make awards, shall be in the discretion of the Secretary.
25 Any such determination, except the determination of the

1 amount of an award if the award was made in accordance
 2 with subsection (b), may be appealed to the appropriate
 3 court of appeals of the United States not more than 30
 4 days after the determination is issued by the Secretary.
 5 The court shall review the determination made by the Sec-
 6 retary in accordance with section 706 of title 5.

7 “(f) EMPLOYEE PROTECTIONS.—The Secretary of
 8 the Treasury shall issue regulations protecting a whistle-
 9 blower from retaliation, which shall be as close as prac-
 10 ticable to the employee protections provided for under sec-
 11 tion 1057 of the Consumer Financial Protection Act of
 12 2010.”; and

13 (2) in the table of contents for such chapter, by
 14 inserting after the item relating to section 5323 the
 15 following new item:

“5323A. Whistleblower incentives.”.

16 **SEC. 207. CERTAIN VIOLATORS BARRED FROM SERVING ON**
 17 **BOARDS OF UNITED STATES FINANCIAL IN-**
 18 **STITUTIONS.**

19 Section 5321 of title 31, United States Code, is
 20 amended by adding at the end the following:

21 “(f) CERTAIN VIOLATORS BARRED FROM SERVING
 22 ON BOARDS OF UNITED STATES FINANCIAL INSTITU-
 23 TIONS.—

24 “(1) IN GENERAL.—An individual found to
 25 have committed an egregious violation of a provision

1 of (or rule issued under) the Bank Secrecy Act shall
 2 be barred from serving on the board of directors of
 3 a United States financial institution for a 10-year
 4 period beginning on the date of such finding.

5 “(2) EGREGIOUS VIOLATION DEFINED.—With
 6 respect to an individual, the term ‘egregious viola-
 7 tion’ means—

8 “(A) a felony criminal violation for which
 9 the individual was convicted; and

10 “(B) a civil violation where the individual
 11 willfully committed such violation and the viola-
 12 tion facilitated money laundering or the financ-
 13 ing of terrorism.”.

14 **SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
 15 **CRECY ACT VIOLATORS.**

16 (a) IN GENERAL.—Section 5321 of title 31, United
 17 States Code, as amended by section 208, is further amend-
 18 ed by adding at the end the following:

19 “(g) ADDITIONAL DAMAGES FOR REPEAT VIOLA-
 20 TORS.—In addition to any other fines permitted by this
 21 section and section 5322, with respect to a person who
 22 has previously been convicted of a criminal provision of
 23 (or rule issued under) the Bank Secrecy Act or who has
 24 admitted, as part of a deferred- or non-prosecution agree-
 25 ment, to having previously committed a violation of a

1 criminal provision of (or rule issued under) the Bank Se-
2 crecy Act, the Secretary may impose an additional civil
3 penalty against such person for each additional such viola-
4 tion in an amount equal to up three times the profit
5 gained or loss avoided by such person as a result of the
6 violation.”.

7 (b) PROSPECTIVE APPLICATION OF AMENDMENT.—
8 For purposes of determining whether a person has com-
9 mitted a previous violation under section 5321(g) of title
10 31, United States Code, such determination shall only in-
11 clude violations occurring after the date of enactment of
12 this Act.

13 **SEC. 209. JUSTICE ANNUAL REPORT ON DEFERRED AND**
14 **NON-PROSECUTION AGREEMENTS.**

15 (a) ANNUAL REPORT.—The Attorney General shall
16 issue an annual report, every year for the five years begin-
17 ning on the date of enactment of this Act, to the Commit-
18 tees on Financial Services and the Judiciary of the House
19 of Representatives and the Committees on Banking, Hous-
20 ing, and Urban Affairs and the Judiciary of the Senate
21 containing—

22 (1) a list of deferred prosecution agreements
23 and non-prosecution agreements that the Attorney
24 General has entered into during the previous year

1 with any person with respect to a violation or sus-
2 pected violation of the Bank Secrecy Act;

3 (2) the justification for entering into each such
4 agreement;

5 (3) the list of factors that were taken into ac-
6 count in determining that the Attorney General
7 should enter into each such agreement; and

8 (4) the extent of coordination the Attorney
9 General conducted with the Financial Crimes En-
10 forcement Network prior to entering into each such
11 agreement.

12 (b) CLASSIFIED ANNEX.—Each report under sub-
13 section (a) may include a classified annex.

14 (c) BANK SECRECY ACT DEFINED.—For purposes of
15 this section, the term “Bank Secrecy Act” has the mean-
16 ing given that term under section 5312 of title 31, United
17 States Code.

18 **SEC. 210. RETURN OF PROFITS AND BONUSES.**

19 (a) IN GENERAL.—Section 5322 of title 31, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

22 “(e) RETURN OF PROFITS AND BONUSES.—A person
23 convicted of violating a provision of (or rule issued under)
24 the Bank Secrecy Act shall—

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) may not be construed to prohibit a financial institution from requiring the repayment of a bonus paid to a partner, director, officer, or employee if the financial institution determines that the partner, director, officer, or employee engaged in unethical, but non-criminal, activities.

21 (a) IN GENERAL.—Section 5312(a)(2) of title 31,
22 United States Code, is amended—

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1 (2) by redesignating subparagraph (Z) as sub-
2 paragraph (AA); and

3 (3) by inserting after subsection (Y) the fol-
4 lowing:

5 “(Z) a person trading or acting as an
6 intermediary in the trade of antiquities, includ-
7 ing an advisor, consultant or any other person
8 who engages as a business in the solicitation of
9 the sale of antiquities; or”.

10 (b) STUDY ON THE FACILITATION OF MONEY LAUN-
11 DERING AND TERROR FINANCE THROUGH THE TRADE OF
12 WORKS OF ART OR ANTIQUITIES.—

13 (1) STUDY.—The Secretary of the Treasury, in
14 coordination with Federal Bureau of Investigation,
15 the Attorney General, and Homeland Security Inves-
16 tigations, shall perform a study on the facilitation of
17 money laundering and terror finance through the
18 trade of works of art or antiquities, including an
19 analysis of—

20 (A) the extent to which the facilitation of
21 money laundering and terror finance through
22 the trade of works of art or antiquities may
23 enter or affect the financial system of the
24 United States, including any qualitative data or
25 statistics;

1 (B) whether thresholds and definitions
2 should apply in determining which entities to
3 regulate;

4 (C) an evaluation of which markets, by
5 size, entity type, domestic or international geo-
6 graphical locations, or otherwise, should be sub-
7 ject to regulations, but only to the extent such
8 markets are not already required to report on
9 the trade of works of art or antiquities to the
10 Federal Government;

11 (D) an evaluation of whether certain ex-
12 emptions should apply; and

13 (E) any other points of study or analysis
14 the Secretary determines necessary or appro-
15 priate.

16 (2) REPORT.—Not later than the end of the
17 180-day period beginning on the date of the enact-
18 ment of this Act, the Secretary of the Treasury shall
19 issue a report to the Committee on Financial Serv-
20 ices of the House of Representatives and the Com-
21 mittee on Banking, Housing, and Urban Affairs of
22 the Senate containing all findings and determina-
23 tions made in carrying out the study required under
24 paragraph (1).

1 (c) RULEMAKING.—Not later than the end of the
2 180-day period beginning on the date the Secretary issues
3 the report required under subsection (b)(2), the Secretary
4 shall issue regulations to carry out the amendments made
5 by subsection (a).

6 **SEC. 212. GEOGRAPHIC TARGETING ORDER.**

7 The Secretary of the Treasury shall issue a geo-
8 graphic targeting order, similar to the order issued by the
9 Financial Crimes Enforcement Network on November 15,
10 2018, that—

11 (1) applies to commercial real estate to the
12 same extent, with the exception of having the same
13 thresholds, as the order issued by FinCEN on No-
14 vember 15, 2018, applies to residential real estate;
15 and

16 (2) establishes a specific threshold for commer-
17 cial real estate.

18 **SEC. 213. STUDY AND REVISIONS TO CURRENCY TRANS-**
19 **ACTION REPORTS AND SUSPICIOUS ACTIVITY**
20 **REPORTS.**

21 (a) CURRENCY TRANSACTION REPORTS.—

22 (1) CTR INDEXED FOR INFLATION.—

23 (A) IN GENERAL.—Every 5 years after the
24 date of enactment of this Act, the Secretary of
25 the Treasury shall revise regulations issued

1 with respect to section 5313 of title 31, United
2 States Code, to update each \$10,000 threshold
3 amount in such regulation to reflect the change
4 in the Consumer Price Index for All Urban
5 Consumers published by the Department of
6 Labor, rounded to the nearest \$100. For pur-
7 poses of calculating the change described in the
8 previous sentence, the Secretary shall use
9 \$10,000 as the base amount and the date of en-
10 actment of this Act as the base date.

11 (B) EXCEPTION.—Notwithstanding sub-
12 paragraph (A), the Secretary may make appro-
13 priate adjustments to the threshold amounts
14 described under subparagraph (A) in high-risk
15 areas (e.g., High Intensity Financial Crime
16 Areas or HIFCAs), if the Secretary has demon-
17 strable evidence that shows a threshold raise
18 would increase serious crimes, such as traf-
19 ficking, or endanger national security.

20 (2) GAO CTR STUDY.—

21 (A) STUDY.—The Comptroller General of
22 the United States shall carry out a study of
23 currency transaction reports. Such study shall
24 include—

1 (i) a review (carried out in consulta-
2 tion with the Secretary of the Treasury,
3 the Financial Crimes Enforcement Net-
4 work, the United States Attorney General,
5 the State Attorneys General, and State,
6 Tribal, and local law enforcement) of the
7 effectiveness of the current currency trans-
8 action reporting regime;

9 (ii) an analysis of the importance of
10 currency transaction reports to law en-
11 forcement; and

12 (iii) an analysis of the effects of rais-
13 ing the currency transaction report thresh-
14 old.

15 (B) REPORT.—Not later than the end of
16 the 1-year period beginning on the date of en-
17 actment of this Act, the Comptroller General
18 shall issue a report to the Secretary of the
19 Treasury and the Congress containing—

20 (i) all findings and determinations
21 made in carrying out the study required
22 under subparagraph (A); and

23 (ii) recommendations for improving
24 the current currency transaction reporting
25 regime.

1 (b) MODIFIED SARs STUDY AND DESIGN.—

2 (1) STUDY.—The Director of the Financial
3 Crimes Enforcement Network shall carry out a
4 study, in consultation with industry stakeholders (in-
5 cluding money services businesses, community
6 banks, and credit unions), regulators, and law en-
7 forcement, of the design of a modified suspicious ac-
8 tivity report form for certain customers and activi-
9 ties. Such study shall include—

10 (A) an examination of appropriate optimal
11 SARs thresholds to determine the level at which
12 a modified SARs form could be employed;

13 (B) an evaluation of which customers or
14 transactions would be appropriate for a modi-
15 fied SAR, including—

16 (i) seasoned business customers;

17 (ii) financial technology (Fintech)
18 firms;

19 (iii) structuring transactions; and

20 (iv) any other customer or transaction
21 that may be appropriate for a modified
22 SAR; and

23 (C) an analysis of the most effective meth-
24 ods to reduce the regulatory burden imposed on
25 financial institutions in complying with the

1 Bank Secrecy Act, including an analysis of the
2 effect of—

3 (i) modifying thresholds;

4 (ii) shortening forms;

5 (iii) combining Bank Secrecy Act
6 forms;

7 (iv) filing reports in periodic batches;

8 and

9 (v) any other method that may reduce
10 the regulatory burden.

11 (2) STUDY CONSIDERATIONS.—In carrying out
12 the study required under paragraph (1), the Direc-
13 tor shall seek to balance law enforcement priorities,
14 regulatory burdens experienced by financial institu-
15 tions, and the requirement for reports to have a
16 “high degree of usefulness to law enforcement”
17 under the Bank Secrecy Act.

18 (3) REPORT.—Not later than the end of the 1-
19 year period beginning on the date of enactment of
20 this Act, the Director shall issue a report to Con-
21 gress containing—

22 (A) all findings and determinations made
23 in carrying out the study required under sub-
24 section (a); and

1 (B) sample designs of modified SARs
2 forms based on the study results.

3 (4) CONTRACTING AUTHORITY.—The Director
4 may contract with a private third-party to carry out
5 the study required under this subsection. The au-
6 thority of the Director to enter into contracts under
7 this paragraph shall be in effect for each fiscal year
8 only to the extent and in the amounts as are pro-
9 vided in advance in appropriations Acts.

10 (c) DEFINITIONS.—For purposes of this section:

11 (1) BANK SECRECY ACT.—The term “Bank Se-
12 crecy Act” has the meaning given that term under
13 section 5312 of title 31, United States Code.

14 (2) REGULATORY BURDEN.—The term “regu-
15 latory burden” means the man-hours to complete fil-
16 ings, cost of data collection and analysis, and other
17 considerations of chapter 35 of title 44, United
18 States Code (commonly referred to as the Paper-
19 work Reduction Act).

20 (3) SAR; SUSPICIOUS ACTIVITY REPORT.—The
21 term “SAR” and “suspicious activity report” mean
22 a report of a suspicious transaction under section
23 5318(g) of title 31, United States Code.

24 (4) SEASONED BUSINESS CUSTOMER.—The
25 term “seasoned business customer”, shall have such

1 meaning as the Secretary of the Treasury shall pre-
2 scribe, which shall include any person that—

3 (A) is incorporated or organized under the
4 laws of the United States or any State, or is
5 registered as, licensed by, or otherwise eligible
6 to do business within the United States, a
7 State, or political subdivision of a State;

8 (B) has maintained an account with a fi-
9 nancial institution for a length of time as deter-
10 mined by the Secretary; and

11 (C) meet such other requirements as the
12 Secretary may determine necessary or appro-
13 priate.

14 **SEC. 214. STREAMLINING REQUIREMENTS FOR CURRENCY**
15 **TRANSACTION REPORTS AND SUSPICIOUS**
16 **ACTIVITY REPORTS.**

17 (a) REVIEW.—The Secretary of the Treasury (in con-
18 sultation with Federal law enforcement agencies, the Di-
19 rector of National Intelligence, and the Federal functional
20 regulators and in consultation with other relevant stake-
21 holders) shall undertake a formal review of the current
22 financial institution reporting requirements under the
23 Bank Secrecy Act and its implementing regulations and
24 propose changes to further reduce regulatory burdens, and
25 ensure that the information provided is of a “high degree

1 of usefulness” to law enforcement, as set forth under sec-
2 tion 5311 of title 31, United States Code.

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

5 (1) whether the timeframe for filing a sus-
6 picious activity report should be increased from 30
7 days;

8 (2) whether or not currency transaction report
9 and suspicious activity report thresholds should be
10 tied to inflation or otherwise periodically be ad-
11 justed;

12 (3) whether the circumstances under which a fi-
13 nancial institution determines whether to file a “con-
14 tinuing suspicious activity report”, or the processes
15 followed by a financial institution in determining
16 whether to file a “continuing suspicious activity re-
17 port” (or both) can be narrowed;

18 (4) analyzing the fields designated as “critical”
19 on the suspicious activity report form and whether
20 the number of fields should be reduced;

21 (5) the increased use of exemption provisions to
22 reduce currency transaction reports that are of little
23 or no value to law enforcement efforts;

1 (6) the current financial institution reporting
2 requirements under the Bank Secrecy Act and its
3 implementing regulations and guidance; and

4 (7) such other items as the Secretary deter-
5 mines appropriate.

6 (c) REPORT.—Not later than the end of the one year
7 period beginning on the date of the enactment of this Act,
8 the Secretary of the Treasury, in consultation with law
9 enforcement and persons subject to Bank Secrecy Act re-
10 quirements, shall issue a report to the Congress containing
11 all findings and determinations made in carrying out the
12 review required under subsection (a).

13 (d) DEFINITIONS.—For purposes of this section:

14 (1) FEDERAL FUNCTIONAL REGULATOR.—The
15 term “Federal functional regulator” has the mean-
16 ing given that term under section 103.

17 (2) OTHER TERMS.—The terms “Bank Secrecy
18 Act” and “financial institution” have the meaning
19 given those terms, respectively, under section 5312
20 of title 31, United States Code.

TITLE III—MODERNIZING THE AML SYSTEM

SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLI- ANCE.

Section 5318 of title 31, United States Code, as amended by section 202, is further amended by adding at the end the following:

“(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

“(1) IN GENERAL.—The Federal functional regulators shall encourage financial institutions to consider, evaluate, and, where appropriate, responsibly implement innovative approaches to meet the requirements of this subchapter, including through the use of innovation pilot programs.

“(2) EXEMPTIVE RELIEF.—The Secretary, pursuant to subsection (a), may provide exemptions from the requirements of this subchapter if the Secretary determines such exemptions are necessary to facilitate the testing and potential use of new technologies and other innovations.

“(3) RULE OF CONSTRUCTION.—This subsection may not be construed to require financial institutions to consider, evaluate, or implement innovative approaches to meet the requirements of the Bank Secrecy Act.

1 “(4) FEDERAL FUNCTIONAL REGULATOR DE-
2 FINED.—In this subsection, the term ‘Federal func-
3 tional regulator’ means the Board of Governors of
4 the Federal Reserve System, the Comptroller of the
5 Currency, the Federal Deposit Insurance Corpora-
6 tion, the National Credit Union Administration, the
7 Securities and Exchange Commission, and the Com-
8 modity Futures Trading Commission.”.

9 **SEC. 302. INNOVATION LABS.**

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

13 **“§ 5333. Innovation Labs**

14 “(a) ESTABLISHMENT.—There is established within
15 the Department of the Treasury and each Federal func-
16 tional regulator an Innovation Lab.

17 “(b) DIRECTOR.—The head of each Innovation Lab
18 shall be a Director, to be appointed by the Secretary of
19 the Treasury or the head of the Federal functional regu-
20 lator, as applicable.

21 “(c) DUTIES.—The duties of the Innovation Lab
22 shall be—

23 “(1) to provide outreach to law enforcement
24 agencies, financial institutions, and other persons
25 (including vendors and technology companies) with

1 respect to innovation and new technologies that may
2 be used to comply with the requirements of the
3 Bank Secrecy Act;

4 “(2) to support the implementation of respon-
5 sible innovation and new technology, in a manner
6 that complies with the requirements of the Bank Se-
7 crecy Act;

8 “(3) to explore opportunities for public-private
9 partnerships; and

10 “(4) to develop metrics of success.

11 “(d) FINCEN LAB.—The Innovation Lab established
12 under subsection (a) within the Department of the Treas-
13 ury shall be a lab within the Financial Crimes Enforce-
14 ment Network.

15 “(e) FEDERAL FUNCTIONAL REGULATOR DE-
16 FINED.—In this subsection, the term ‘Federal functional
17 regulator’ means the Board of Governors of the Federal
18 Reserve System, the Comptroller of the Currency, the
19 Federal Deposit Insurance Corporation, the National
20 Credit Union Administration, the Securities and Exchange
21 Commission, and the Commodity Futures Trading Com-
22 mission.”.

23 “(b) CLERICAL AMENDMENT.—The table of contents
24 for subchapter II of chapter 53 of title 31, United States
25 Code, is amended by adding at the end the following:

“5333. Innovation Labs.”.

1 **SEC. 303. INNOVATION COUNCIL.**

2 (a) IN GENERAL.—Subchapter II of chapter 53 of
3 Title 31, United States Code, as amended by section 302,
4 is further amended by adding at the end the following:

5 **“§ 5334. Innovation Council**

6 “(a) ESTABLISHMENT.—There is established the In-
7 novation Council (hereinafter in this section referred to
8 as the ‘Council’), which shall consist of each Director of
9 an Innovation Lab established under section 5334 and the
10 Director of the Financial Crimes Enforcement Network.

11 “(b) CHAIR.—The Director of the Innovation Lab of
12 the Department of the Treasury shall serve as the Chair
13 of the Council.

14 “(c) DUTY.—The members of the Council shall co-
15 ordinate on activities related to innovation under the Bank
16 Secrecy Act, but may not supplant individual agency de-
17 terminations on innovation.

18 “(d) MEETINGS.—The meetings of the Council—

19 “(1) shall be at the call of the Chair, but in no
20 case may the Council meet less than semi-annually;

21 “(2) may include open and closed sessions, as
22 determined necessary by the Council; and

23 “(3) shall include participation by public and
24 private entities and law enforcement agencies.

25 “(e) REPORT.—The Council shall issue an annual re-
26 port, for each of the 7 years beginning on the date of en-

1 actment of this section, to the Secretary of the Treasury
 2 on the activities of the Council during the previous year,
 3 including the success of programs as measured by metrics
 4 of success developed pursuant to section 5334(c)(4), and
 5 any regulatory or legislative recommendations that the
 6 Council may have.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
 8 for subchapter II of chapter 53 of title 31, United States
 9 Code, is amended by adding the end the following:

“5334. Innovation Council.”.

10 **SEC. 304. TESTING METHODS RULEMAKING.**

11 (a) IN GENERAL.—Section 5318 of title 31, United
 12 States Code, as amended by section 301, is further amend-
 13 ed by adding at the end the following:

14 “(q) TESTING.—

15 “(1) IN GENERAL.—The Secretary of the
 16 Treasury, in consultation with the head of each
 17 agency to which the Secretary has delegated duties
 18 or powers under subsection (a), shall issue a rule to
 19 specify—

20 “(A) with respect to technology and related
 21 technology-internal processes (‘new technology’)
 22 designed to facilitate compliance with the Bank
 23 Secrecy Act requirements, the standards by
 24 which financial institutions are to test new
 25 technology; and

1 “(B) in what instances or under what cir-
2 cumstance and criteria a financial institution
3 may replace or terminate legacy technology and
4 processes for any examinable technology or
5 process without the replacement or termination
6 being determined an examination deficiency.

7 “(2) STANDARDS.—The standards described
8 under paragraph (1) may include—

9 “(A) an emphasis on using innovative ap-
10 proaches, such as machine learning, rather than
11 rules-based systems;

12 “(B) risk-based back-testing of the regime
13 to facilitate calibration of relevant systems;

14 “(C) requirements for appropriate data
15 privacy and security; and

16 “(D) a requirement that the algorithms
17 used by the regime be disclosed to the Financial
18 Crimes Enforcement Network, upon request.

19 “(3) CONFIDENTIALITY OF ALGORITHMS.—If a
20 financial institution or any director, officer, em-
21 ployee, or agent of any financial institution, volun-
22 tarily or pursuant to this subsection or any other au-
23 thority, discloses the institution’s algorithms to a
24 Government agency, such algorithms and any mate-
25 rials associated with the creation of such algorithms

1 shall be considered confidential and not subject to
2 public disclosure.”.

3 (b) UPDATE OF MANUAL.—The Financial Institu-
4 tions Examination Council shall ensure—

5 (1) that any manual prepared by the Council is
6 updated to reflect the rulemaking required by the
7 amendment made by subsection (a); and

8 (2) that financial institutions are not penalized
9 for the decisions based on such rulemaking to re-
10 place or terminate technology used for compliance
11 with the Bank Secrecy Act (as defined under section
12 5312 of title 31, United States Code) or other anti-
13 money laundering laws.

14 **SEC. 305. FINCEN STUDY ON USE OF EMERGING TECH-**
15 **NOLOGIES.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Director of the Finan-
18 cial Crimes Enforcement Network (“FinCEN”) shall
19 carry out a study on—

20 (A) the status of implementation and in-
21 ternal use of emerging technologies, including
22 artificial intelligence (“AI”), digital identity
23 technologies, blockchain technologies, and other
24 innovative technologies within FinCEN;

1 (B) whether AI, digital identity tech-
2 nologies, blockchain technologies, and other in-
3 novative technologies can be further leveraged
4 to make FinCEN’s data analysis more efficient
5 and effective; and

6 (C) how FinCEN could better utilize AI,
7 digital identity technologies, blockchain tech-
8 nologies, and other innovative technologies to
9 more actively analyze and disseminate the infor-
10 mation it collects and stores to provide inves-
11 tigative leads to Federal, State, Tribal, and
12 local law enforcement, and other Federal agen-
13 cies (collective, “Agencies”), and better support
14 its ongoing investigations when referring a case
15 to the Agencies.

16 (2) INCLUSION OF GTO DATA.—The study re-
17 quired under this subsection shall include data col-
18 lected through the Geographic Targeting Orders
19 (“GTO”) program.

20 (3) CONSULTATION.—In conducting the study
21 required under this subsection, FinCEN shall con-
22 sult with the Directors of the Innovations Labs es-
23 tablished in section 302.

24 (b) REPORT.—Not later than the end of the 6-month
25 period beginning on the date of the enactment of this Act,

1 the Director shall issue a report to the Committee on
2 Banking, Housing, and Urban Affairs of the Senate and
3 the Committee on Financial Services of the House of Rep-
4 resentatives containing—

5 (1) all findings and determinations made in car-
6 rying out the study required under subsection (a);

7 (2) with respect to each of subparagraphs (A),
8 (B) and (C) of subsection (a)(1), any best practices
9 or significant concerns identified by the Director,
10 and their applicability to AI, digital identity tech-
11 nologies, blockchain technologies, and other innova-
12 tive technologies with respect to U.S. efforts to com-
13 bat money laundering and other forms of illicit fi-
14 nance; and

15 (3) any policy recommendations that could fa-
16 cilitate and improve communication and coordination
17 between the private sector, FinCEN, and Agencies
18 through the implementation of innovative ap-
19 proaches, in order to meet their Bank Secrecy Act
20 (as defined under section 5312 of title 31, United
21 States Code) and anti-money laundering compliance
22 obligations.

23 **SEC. 306. DISCRETIONARY SURPLUS FUNDS.**

24 (a) IN GENERAL.—Section 7(a)(3)(A) of the Federal
25 Reserve Act (12 U.S.C. 289(a)(3)(A)) is amended by

1 striking “\$6,825,000,000” and inserting
2 “\$6,798,000,000”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on September 30, 2029.

Passed the House of Representatives October 22,
2019.

Attest: CHERYL L. JOHNSON,
Clerk.