

116TH CONGRESS
1ST SESSION

H. R. 2514

To make reforms to the Federal Bank Secrecy Act and anti-money laundering laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2019

Mr. CLEAVER introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make reforms to the Federal Bank Secrecy Act and anti-money laundering laws, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Coordinating Oversight, Upgrading and Innovating
6 Technology, and Examiner Reform Act of 2019” or the
7 “COUNTER Act of 2019”.

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

- 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. FinCEN Compensation.
 Sec. 103. Civil Liberties and Privacy Officer.
 Sec. 104. Privacy and Civil Liberties Council.
 Sec. 105. International coordination.
 Sec. 106. Treasury Attaché 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. De-risking report.

TITLE II—IMPROVING AML/CFT OVERSIGHT

- Sec. 201. Sharing of suspicious activity reports within a financial group.
 Sec. 202. Training for examiners on AML/CFT.
 Sec. 203. Sharing of compliance resources.
 Sec. 204. GAO Study on feedback loops.
 Sec. 205. FinCEN study on BSA value.
 Sec. 206. Section 314(a) improvements.
 Sec. 207. Sharing of threat pattern and trend information.
 Sec. 208. Modernization and upgrading whistleblower protections.
 Sec. 209. Certain violators barred from serving on public company boards.
 Sec. 210. Additional damages for repeat Bank Secrecy Act violators.
 Sec. 211. Justice annual report on deferred and nonprosecution agreements.
 Sec. 212. Return of profits and bonuses.
 Sec. 213. Prohibition on tax deductions for attorney’s fees related to Bank Secrecy Act settlements and court costs.
 Sec. 214. Application of Bank Secrecy Act to dealers in art or antiquities.
 Sec. 215. Revision to geographic targeting order.

TITLE III—MODERNIZING THE AML SYSTEM

- Sec. 301. Encouraging innovation in BSA compliance.
 Sec. 302. Innovation Labs.
 Sec. 303. Innovation Council.
 Sec. 304. Parallel runs rulemaking.

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

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

4 “(6) BANK SECRECY ACT.—The term ‘Bank Se-
 5 crecy act’ means—

1 “(A) section 21 of the Federal Deposit In-
 2 surance Act;

3 “(B) chapter 2 of title I of Public Law 91–
 4 508; and

5 “(C) this subchapter.”.

6 **TITLE I—STRENGTHENING**
 7 **TREASURY**

8 **SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF**
 9 **THE BANK SECRECY ACT.**

10 Section 5311 of title 31, United States Code, is
 11 amended—

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

15 (2) by inserting “to law enforcement” before
 16 “in criminal”.

17 **SEC. 102. FINCEN COMPENSATION.**

18 Section 310 of title 31, United States Code, is
 19 amended—

20 (1) by redesignating subsection (d) as sub-
 21 section (f); and

22 (2) by inserting after subsection (c) the fol-
 23 lowing:

24 “(d) EMPLOYEE COMPENSATION.—In fixing the com-
 25 pensation for employees of FinCEN, the Secretary shall—

1 “(1) fix such compensation without regard to
2 the provisions of chapter 51 or subchapter III of
3 chapter 53 of title 5, United States Code; and

4 “(2) ensure that such compensation is com-
5 parable to the compensation provided by the Board
6 of Governors of the Federal Reserve System, the
7 Bureau of Consumer Financial Protection, the Fed-
8 eral Deposit Insurance Corporation, the National
9 Credit Union Administration, and the Office of the
10 Comptroller of the Currency.”.

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

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

17 (1) within each Federal financial regulator, by
18 the head of the Federal financial regulator;

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

21 (3) within the Internal Revenue Service Crimi-
22 nal Investigation, by the Secretary of the Treasury.

23 (b) DUTIES.—Each Civil Liberties and Privacy Offi-
24 cer shall, with respect to the applicable regulator, Net-

1 work, or Investigation within which the Officer is lo-
2 cated—

3 (1) be consulted each time the regulations are
4 developed or reviewed;

5 (2) be consulted on information-sharing activi-
6 ties, including activities that provide access to per-
7 sonally identifiable information; and

8 (3) contribute to the evaluation and regulation
9 of new technologies.

10 (c) FEDERAL FINANCIAL REGULATOR DEFINED.—

11 For purposes of this section, the term “Federal financial
12 regulator” means the Board of Governors of the Federal
13 Reserve System, the Bureau of Consumer Financial Pro-
14 tection, the Federal Deposit Insurance Corporation, the
15 National Credit Union Administration, and the Office of
16 the Comptroller of the Currency.

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

18 (a) ESTABLISHMENT.—There is established the Pri-
19 vacy and Civil Liberties Council (hereinafter in this sec-
20 tion referred to as the “Council”), which shall consist of
21 the Civil Liberties and Privacy Officers appointed pursu-
22 ant to section 103.

23 (b) CHAIR.—The Civil Liberties and Privacy Officer
24 of the Financial Crimes Enforcement Network shall serve
25 as the Chair of the Council.

1 (c) DUTY.—The members of the Council shall coordi-
2 nate on activities related to their duties as Privacy and
3 Civil Liberties Officers.

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

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

7 (2) may include open and closed sessions, as de-
8 termined necessary by the Council; and

9 (3) may include participation by public and pri-
10 vate entities and law enforcement agencies.

11 (e) REPORT.—The Council shall issue an annual re-
12 port to the Congress on the activities of the Council during
13 the previous year and any legislative recommendations
14 that the Council may have.

15 **SEC. 105. INTERNATIONAL COORDINATION.**

16 The Secretary of the Treasury shall work with the
17 Secretary's foreign counterparts, including through the
18 Financial Action Task Force, the International Monetary
19 Fund, the World Bank, and the United Nations, to pro-
20 mote stronger anti-money laundering frameworks and en-
21 forcement of anti-money laundering laws.

22 **SEC. 106. TREASURY ATTACHÉ PROGRAM.**

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

1 **“§ 316. Treasury Attaché Program**

2 “(a) IN GENERAL.—There is established the Treas-
3 ury Attaché Program, under which the Secretary of the
4 Treasury shall appoint employees of the Department of
5 the Treasury as a Treasury attaché, who shall—

6 “(1) have expertise in Bank Secrecy Act and
7 anti-money laundering issues;

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

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

11 “(4) establish and maintain relationships with
12 foreign counterparts, including employees of min-
13 istries of finance, central banks, and other relevant
14 official entities;

15 “(5) conduct outreach to local and foreign fi-
16 nancial institutions and other commercial actors, in-
17 cluding—

18 “(A) information exchanges; and

19 “(B) soliciting buy-in and cooperation for
20 the implementation of—

21 “(i) United States and multilateral
22 sanctions; and

23 “(ii) international standards on anti-
24 money laundering and the countering of
25 the financing of terrorism; and

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

3 “(b) NUMBER OF ATTACHÉS.—The number of Treas-
4 ury attachés appointed under this section at any one time
5 shall be not fewer than 6 more employees than the number
6 of employees of the Department of the Treasury serving
7 as Treasury attachés on March 1, 2019.

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

11 “(1) the rate of compensation provided to a
12 Foreign Service officer serving at the same embassy;
13 or

14 “(2) the rate of compensation the Treasury
15 attaché would otherwise have received, absent the
16 application of this subsection.

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

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

“316. Treasury Attaché Program.”.

1 **SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR**
2 **INTERNATIONAL COOPERATION.**

3 There is authorized to be appropriated for fiscal year
4 2020 to the Secretary of the Treasury for purposes of pro-
5 viding technical assistance for international cooperation
6 an amount equal to twice the amount authorized for such
7 purpose for fiscal year 2019.

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 another Federal
20 agency in such region);

21 “(C) provide education to, and coordina-
22 tion with, both public- and private-sector enti-
23 ties with respect to FinCEN; and

24 “(D) perform outreach to financial institu-
25 tions (including non-bank financial institutions)
26 and persons who are not financial institutions,

1 especially with respect to actions taken by
 2 FinCEN that require specific actions by, or
 3 have specific effects on, such institutions or
 4 persons, as determined by the Director.

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

8 **SEC. 109. FINCEN EXCHANGE.**

9 (a) IN GENERAL.—Section 314(a) of the USA PA-
 10 TRIOT Act (31 U.S.C. 5311 note) is amended by adding
 11 at the end the following:

12 “(6) FINCEN EXCHANGE.—

13 “(A) ESTABLISHMENT.—The FinCEN Ex-
 14 change is hereby established within FinCEN,
 15 which shall consist of the FinCEN Exchange
 16 program of FinCEN in existence on the day be-
 17 fore the date of enactment of this paragraph.

18 “(B) PURPOSE.—The FinCEN Exchange
 19 shall further the purpose described under para-
 20 graph (1) by facilitating a voluntary public-pri-
 21 vate information sharing partnership among
 22 law enforcement, financial institutions, and
 23 FinCEN to—

1 “(i) effectively and efficiently combat
2 money laundering, terrorism financing, or-
3 ganized crime, and other financial crimes;

4 “(ii) protect the financial system from
5 illicit use; and

6 “(iii) promote national security.

7 “(C) FINCEN DEFINED.—In this para-
8 graph, the term ‘FinCEN’ means the Financial
9 Crimes Enforcement Network of the Depart-
10 ment of the Treasury.”.

11 (b) AUTHORIZATION OF APPROPRIATION.—There is
12 authorized to be appropriated such sums as may be nec-
13 essary to carry out the amendment made by subsection
14 (a).

15 **SEC. 110. STUDY AND STRATEGY ON TRADE-BASED MONEY**
16 **LAUNDERING.**

17 (a) STUDY.—The Secretary of the Treasury shall
18 carry out a study, in consultation with other appropriate
19 Federal departments and agencies, on trade-based money
20 laundering.

21 (b) REPORT.—Not later than the end of the 9-month
22 period beginning on the date of the enactment of this Act,
23 the Secretary shall issue a report to the Congress con-
24 taining—

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

4 (2) proposed strategies to combat trade-based
5 money laundering.

6 (c) CLASSIFIED ANNEX.—The report required under
7 this section may include a classified annex, if the Sec-
8 retary determines it appropriate.

9 **SEC. 111. DE-RISKING REPORT.**

10 (a) REVIEW.—The Secretary of the Treasury, in con-
11 sultation with the Federal functional regulators (as de-
12 fined under section 103) and other relevant stakeholders,
13 shall undertake a formal review of—

14 (1) the adverse consequences of financial insti-
15 tutions de-risking entire categories of relationships,
16 including charities, embassy accounts, money serv-
17 ices businesses (as defined under section
18 1010.100(ff) of title 31, Code of Federal Regula-
19 tions), countries, regions, and respondent banks;

20 (2) the reasons why financial institutions are
21 engaging in de-risking;

22 (3) the association with and effects of de-risk-
23 ing on money laundering and financial crime actors
24 and activities; and

1 (4) the most appropriate ways to promote fi-
 2 nancial inclusion while maintaining compliance with
 3 the Bank Secrecy Act.

4 (b) REPORT.—Not later than the end of the 1-year
 5 period beginning on the date of the enactment of this Act,
 6 the Secretary, in consultation with the Federal functional
 7 regulators and other relevant stakeholders, shall issue a
 8 report to Congress containing all findings and determina-
 9 tions made in carrying out the study required under sub-
 10 section (a).

11 (c) DEFINITIONS.—In this section:

12 (1) DE-RISKING.—The term “de-risking”
 13 means the closing of customer accounts or limiting
 14 services of a category of customer due to perceived
 15 risk as it relates to compliance with the Bank Se-
 16 crecy Act.

17 (2) BSA 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.

21 **TITLE II—IMPROVING AML/CFT** 22 **OVERSIGHT**

23 **SEC. 201. SHARING OF SUSPICIOUS ACTIVITY REPORTS** 24 **WITHIN A FINANCIAL GROUP.**

25 (a) IN GENERAL.—

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

5 “(5) SHARING WITH FOREIGN BRANCHES, SUB-
6 SIDIARIES, AND AFFILIATES.—

7 “(A) IN GENERAL.—Not later than 180
8 days after the date of the enactment of this
9 paragraph, the Secretary of the Treasury shall
10 issue rules permitting any financial institution
11 with a reporting obligation under this sub-
12 section to share information on reports under
13 this subsection with the institution’s foreign
14 branches, subsidiaries, and affiliates for the
15 purposes of combating illicit finance risks, not-
16 withstanding any other provision of law except
17 subparagraph (B).

18 “(B) EXCEPTION.—In issuing the regula-
19 tions required under subparagraph (A), the
20 Secretary may not permit a financial institution
21 to share information on reports under this sub-
22 section with a foreign branch, subsidiary, or af-
23 filiate located in a jurisdiction that—

24 “(i) is subject to countermeasures im-
25 posed by the Federal Government; or

1 “(ii) the Secretary, in consultation
2 with the Civil Liberties and Privacy Officer
3 of the Financial Crimes Enforcement Net-
4 work, has determined cannot reasonably
5 protect the privacy and confidentiality of
6 such information.”.

7 (2) NOTIFICATION PROHIBITIONS.—Section
8 5318(g)(2)(A) of title 31, United States Code, is
9 amended—

10 (A) in clause (i), by inserting after “trans-
11 action has been reported” the following: “or
12 otherwise reveal any information that would re-
13 veal that the transaction has been reported, in-
14 cluding materials prepared or used by the fi-
15 nancial institution for the purpose of identifying
16 and detecting potentially suspicious activity”;
17 and

18 (B) in clause (ii), by inserting after “trans-
19 action has been reported,” the following: “or
20 otherwise reveal any information that would re-
21 veal that the transaction has been reported, in-
22 cluding materials prepared or used by the fi-
23 nancial institution for the purpose of identifying
24 and detecting potentially suspicious activity,”.

1 (b) RULEMAKING.—Not later than the end of the
 2 180-day period beginning on the date of enactment of this
 3 Act, the Secretary of the Treasury shall issue regulations
 4 to carry out the amendments made by this section.

5 **SEC. 202. TRAINING FOR EXAMINERS ON AML/CFT.**

6 The Federal Financial Institutions Examination
 7 Council Act of 1978 (12 U.S.C. 3301 et seq.) is amend-
 8 ed—

9 (1) by moving section 1009A so as to appear
 10 after section 1009; and

11 (2) by inserting after section 1009A, as so
 12 moved, the following:

13 **“SEC. 1009B. AML/CFT TRAINING.**

14 “(a) TRAINING REQUIREMENT.—Each examiner em-
 15 ployed by a Federal financial institutions regulatory agen-
 16 cy shall attend at least 10 hours of annual training on
 17 anti-money laundering (AML) and the countering of the
 18 financing of terrorism (CFT), including—

19 “(1) potential risk profiles and red flags that
 20 may be encountered during examinations;

21 “(2) financial crime patterns and trends;

22 “(3) the high-level context for why AML and
 23 CFT programs are necessary for law enforcement
 24 agencies and other national security agencies, and
 25 what risks the programs seek to mitigate; and

1 “(4) de-risking and its effect on the provision of
2 financial services.

3 “(b) TRAINING MATERIALS AND STANDARDS.—The
4 Council shall establish uniform training materials and
5 standards for use in the training required under sub-
6 section (a).”.

7 **SEC. 203. SHARING OF COMPLIANCE RESOURCES.**

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

11 “(o) SHARING OF COMPLIANCE RESOURCES.—

12 “(1) SHARING PERMITTED.—Two or more fi-
13 nancial institutions may enter into collaborative ar-
14 rangements in order to more efficiency comply with
15 the requirements of this subchapter.

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

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

1 **SEC. 204. GAO STUDY ON FEEDBACK LOOPS.**

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

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

13 (2) any practices or standards outside the
14 United States for providing feedback loops on sen-
15 sitive information and public-private partnership in-
16 formation sharing efforts, specifically related to ef-
17 forts to combat money laundering and other forms
18 of illicit finance.

19 (b) REPORT.—Not later than the end of the 18-
20 month period beginning on the date of the enactment of
21 this Act, the Comptroller General shall issue a report to
22 the Committee on Banking, Housing, and Urban Affairs
23 of the Senate and the Committee on Financial Services
24 of the House of Representatives containing—

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

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

11 **SEC. 205. FINCEN STUDY ON BSA VALUE.**

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

15 (b) REPORT.—Not later than the end of the 1-year
16 period beginning on the date of enactment of this Act, the
17 Director shall issue a report to the Committee on Finan-
18 cial Services of the House of Representatives and the
19 Committee on Banking, Housing, and Urban Affairs of
20 the Senate containing all findings and determinations
21 made in carrying out the study required under this sec-
22 tion.

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

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

5 **SEC. 206. SECTION 314(a) IMPROVEMENTS.**

6 Section 314(a) of the USA PATRIOT Act (31 U.S.C.
7 5311 note), as amended by section 109, is further amend-
8 ed by adding at the end the following:

9 “(7) POINT OF CONTACT LIST.—

10 “(A) IN GENERAL.—The Secretary shall
11 maintain a list containing contact information
12 for with respect to a law enforcement agency,
13 those individuals who serve as points of contact
14 for a Suspicious Activity Report review com-
15 mittee.

16 “(B) AVAILABILITY OF LIST.—The Sec-
17 retary shall make the list of contact information
18 described under subparagraph (A) available to
19 all financial institutions and law enforcement
20 agencies.”.

21 **SEC. 207. SHARING OF THREAT PATTERN AND TREND IN-**
22 **FORMATION.**

23 Section 314(a) of the USA PATRIOT Act (31 U.S.C.
24 5311 note), as amended by section 206, is further amend-
25 ed by adding at the end the following:

1 “(8) SHARING OF THREAT PATTERN AND
2 TREND INFORMATION.—

3 “(A) IN GENERAL.—Not less than month-
4 ly, the Secretary shall provide financial institu-
5 tions with typologies on emerging money laun-
6 dering and counter terror financing threat pat-
7 terns and trends.

8 “(B) INFORMATION CLASSIFICATION.—In
9 providing information pursuant to subpara-
10 graph (A), the Secretary may provide public
11 and sensitive information to financial institu-
12 tions, but may not provide classified informa-
13 tion, unless otherwise permitted by law.”.

14 **SEC. 208. MODERNIZATION AND UPGRADING WHISTLE-**
15 **BLOWER PROTECTIONS.**

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

18 “(d) SOURCE OF REWARDS.—For the purposes of
19 paying an award under this section, there are authorized
20 to be appropriated such sums as may be necessary, and
21 the Secretary may also use funds from the Department
22 of the Treasury Forfeiture Fund and the Department of
23 Justice Assets Forfeiture Fund.”.

24 (b) WHISTLEBLOWER INCENTIVES.—

1 Chapter 53 of title 31, United States Code, is
2 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—

11 “(A) not less than 10 percent, in total, of
12 what has been collected of the monetary sanc-
13 tions imposed in the action or related actions;
14 and

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

18 “(2) SOURCE OF AWARDS.—For the purposes of
19 paying any award under paragraph (1) there are au-
20 thorized to be appropriated such sums as may be
21 necessary, and the Secretary may also use funds
22 from the Department of the Treasury Forfeiture
23 Fund and the Department of Justice Assets For-
24 feiture Fund.

1 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
2 NIAL OF AWARD.—

3 “(1) DETERMINATION OF AMOUNT OF
4 AWARD.—

5 “(A) DISCRETION.—The determination of
6 the amount of an award made under subsection
7 (b) shall be in the discretion of the Secretary.

8 “(B) CRITERIA.—In responding to a dis-
9 closure and determining the amount of an
10 award made, FinCEN staff shall meet with the
11 whistleblower to discuss evidence disclosed and
12 rebuttals to the disclosure, and—

13 “(i) shall take into consideration—

14 “(I) the significance of the infor-
15 mation provided by the whistleblower
16 to the success of the covered judicial
17 or administrative action;

18 “(II) the degree of assistance
19 provided by the whistleblower and any
20 legal representative of the whistle-
21 blower in a covered judicial or admin-
22 istrative action;

23 “(III) the mission of FinCEN in
24 deterring violations of the law by
25 making awards to whistleblowers who

1 provide information that lead to the
2 successful enforcement of such laws;
3 and

4 “(IV) such additional relevant
5 factors as the Secretary may establish
6 by rule; and

7 “(ii) shall not take into consideration
8 the balance of any fund described under
9 section 5323(d).

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

12 “(A) to any whistleblower who is, or was at
13 the time the whistleblower acquired the original
14 information submitted to FinCEN, a member,
15 officer, or employee of—

16 “(i) an appropriate regulatory agency;

17 “(ii) the Department of Justice;

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

19 “(iv) a law enforcement organization;

20 “(B) to any whistleblower who is convicted
21 of a criminal violation related to the judicial or
22 administrative action for which the whistle-
23 blower otherwise could receive an award under
24 this section;

1 “(C) to any whistleblower who gains the
2 information through the performance of an
3 audit of financial statements required under the
4 Bank Secrecy Act and for whom such submis-
5 sion would be contrary to its requirements; or

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

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

14 “(d) REPRESENTATION.—

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

18 “(2) REQUIRED REPRESENTATION.—

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

1 “(B) DISCLOSURE OF IDENTITY.—Prior to
 2 the payment of an award, a whistleblower shall
 3 disclose their identity and provide such other
 4 information as the Secretary may require, di-
 5 rectly or through counsel for the whistleblower.

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

16 (2) in the table of contents for such chapter, by
 17 inserting after the item relating to section 5323 the
 18 following new item:

“5323A. Whistleblower incentives.”.

19 **SEC. 209. CERTAIN VIOLATORS BARRED FROM SERVING ON**
 20 **PUBLIC COMPANY BOARDS.**

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

23 “(f) CERTAIN VIOLATORS BARRED FROM SERVING
 24 ON PUBLIC COMPANY BOARDS.—

1 “(1) IN GENERAL.—An individual found to
2 have committed an egregious violation of a provision
3 of (or rule issued under) this subchapter, section 21
4 of the Federal Deposit Insurance Act, or section 123
5 of Public Law 91–508 shall be barred from serving
6 on the board of directors of a public company for a
7 10-year period beginning on the date of such find-
8 ing.

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

10 “(A) EGREGIOUS VIOLATION.—With re-
11 spect to an individual, the term ‘egregious viola-
12 tion’ means—

13 “(i) a felony criminal violation for
14 which the individual was convicted; and

15 “(ii) a civil violation where the indi-
16 vidual knowingly committed such violation
17 and the violation facilitated money laun-
18 dering or the financing of terrorism.

19 “(B) PUBLIC COMPANY.—The term ‘public
20 company’ means an issuer the securities of
21 which are traded on a national securities ex-
22 change.

23 “(C) OTHER SECURITIES TERMS.—The
24 terms ‘issuer’ and ‘national securities exchange’
25 have the meaning given those terms, respec-

1 tively, under section 3 of the Securities Ex-
2 change Act of 1934.”.

3 **SEC. 210. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
4 **CRECY ACT VIOLATORS.**

5 Section 5321 of title 31, United States Code, as
6 amended by section 209, is further amended by adding
7 at the end the following:

8 “(g) **ADDITIONAL DAMAGES FOR REPEAT VIOLA-**
9 **TORS.**—In addition to any other fines permitted by this
10 section and section 5322, with respect to a person who
11 has previously violated a provision of (or rule issued
12 under) this subchapter, section 21 of the Federal Deposit
13 Insurance Act, or section 123 of Public Law 91–508, the
14 Secretary may impose an additional civil penalty against
15 such person for each additional such violation in an
16 amount equal to up to three times the profit gained or
17 loss avoided by such person as a result of the violation.”.

18 **SEC. 211. JUSTICE ANNUAL REPORT ON DEFERRED AND**
19 **NONPROSECUTION AGREEMENTS.**

20 (a) **ANNUAL REPORT.**—The Attorney General shall
21 issue an annual report, every year for the five years begin-
22 ning on the date of enactment of this Act, to the Commit-
23 tees on Financial Services and the Judiciary of the House
24 of Representatives and the Committees on Banking, Hous-

1 ing, and Urban Affairs and the Judiciary of the Senate
2 containing—

3 (1) a list of deferred prosecution agreements
4 and nonprosecution agreements that the Attorney
5 General has entered into during the previous year
6 with any person with respect to a violation or sus-
7 pected violation of the Bank Secrecy Act;

8 (2) the justification for entering into each such
9 agreement;

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

13 (4) the extent of coordination the Attorney
14 General conducted with the Financial Crimes En-
15 forcement Network prior to entering into each such
16 agreement.

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

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

23 **SEC. 212. RETURN OF PROFITS AND BONUSES.**

24 Section 5322 of title 31, United States Code, is
25 amended by adding at the end the following:

1 “(e) RETURN OF PROFITS AND BONUSES.—A person
 2 convicted of violating a provision of (or rule issued under)
 3 this subchapter, section 21 of the Federal Deposit Insur-
 4 ance Act, or section 123 of Public Law 91–508 shall—

5 “(1) in addition to any other fine under this
 6 section, be fined in an amount equal to the profit
 7 gained by such person by reason of such violation,
 8 as determined by the court; and

9 “(2) if such person is an individual who was a
 10 partner, director, officer, or employee of a domestic
 11 financial institution or nonfinancial trade or busi-
 12 ness at the time the violation occurred, repay to
 13 such domestic financial institution or nonfinancial
 14 trade or business any bonus paid to such individual
 15 during the Federal fiscal year in which the violation
 16 occurred.”.

17 **SEC. 213. PROHIBITION ON TAX DEDUCTIONS FOR ATTOR-**
 18 **NEYS FEES RELATED TO BANK SECRECY ACT**
 19 **SETTLEMENTS AND COURT COSTS.**

20 Section 162(f) of the Internal Revenue Code of 1986
 21 is amended by adding at the end the following:

22 “(6) VIOLATIONS OF THE BANK SECRECY
 23 ACT.—In the case of a payment described in para-
 24 graph (1) that is in relation to any violation of the
 25 Bank Secrecy Act (as defined under section 5312 of

1 title 31, United States Code), no deduction shall be
 2 allowed under this chapter for attorney’s fees related
 3 to such payment.”.

4 **SEC. 214. APPLICATION OF BANK SECRECY ACT TO DEAL-**
 5 **ERS IN ART OR ANTIQUITIES.**

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

8 (1) in subparagraph (Y), by striking “or” at
 9 the end;

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

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

14 “(Z) dealers in art or antiquities; or”.

15 (b) RULEMAKING.—Not later than the end of the
 16 180-day period beginning on the date of the enactment
 17 of this Act, the Secretary of the Treasury shall issue regu-
 18 lations to carry out the amendments made by subsection
 19 (a).

20 (c) EFFECTIVE DATE.—Section 5312(a)(2)(Z) of
 21 title 31, United States Code, as added by subsection (a),
 22 shall take effect after the end of the 270-day period begin-
 23 ning on the date of the enactment of this Act.

1 **SEC. 215. REVISION TO GEOGRAPHIC TARGETING ORDER.**

2 The Secretary of the Treasury shall revise the geo-
3 graphic targeting order issued by the Financial Crimes
4 Enforcement Network on November 15, 2018 (the
5 “Order”), so that the Order—

6 (1) applies to commercial real estate to the
7 same extent as the Order applies to residential real
8 estate; and

9 (2) applies to a purchase made, at least in part,
10 using an in-kind transaction to the same extent as
11 the Order applies to a purchase made, at least in
12 part, using currency or a cashier’s check, a certified
13 check, a traveler’s check, a personal check, a busi-
14 ness check, a money order in any form, a funds
15 transfer, or virtual currency.

16 **TITLE III—MODERNIZING THE**
17 **AML SYSTEM**

18 **SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLI-**
19 **ANCE.**

20 Section 5318 of title 31, United States Code, as
21 amended by section 203, is further amended by adding
22 at the end the following:

23 “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

24 “(1) IN GENERAL.—The financial agencies shall
25 encourage financial institutions to consider, evaluate,
26 and, where appropriate, responsibly implement inno-

1 vative approaches to meet the requirements of this
2 subchapter, including through the use of innovation
3 pilot programs.

4 “(2) EXEMPTIVE RELIEF.—The Secretary, pur-
5 suant to subsection (a), may provide exemptions
6 from the requirements of this subchapter if the Sec-
7 retary determines such exemptions are necessary to
8 facilitate the testing and potential use of new tech-
9 nologies and other innovations.

10 “(3) FINANCIAL AGENCY DEFINED.—In this
11 subsection, the term ‘financial agency’ means the
12 Department of the Treasury, the Board of Gov-
13 ernors of the Federal Reserve System, the Federal
14 Deposit Insurance Corporation, the National Credit
15 Union Administration, the Office of the Comptroller
16 of the Currency, and the Securities and Exchange
17 Commission.”.

18 **SEC. 302. INNOVATION LABS.**

19 (a) IN GENERAL.—Title 31, United States Code, is
20 amended by inserting after section 5326 the following:

21 **“§ 5327. Innovation Labs**

22 “(a) ESTABLISHMENT.—There is established within
23 each financial agency an Innovation Lab.

1 “(b) DIRECTOR.—The head of each Innovation Lab
2 shall be a Director, to be appointed by the head of the
3 applicable financial agency.

4 “(c) DUTIES.—The duties of the Innovation Lab
5 shall be—

6 “(1) to provide outreach to law enforcement
7 agencies, financial institutions, and other persons
8 (including vendors and technology companies) with
9 respect to innovation and new technologies used to
10 comply with the requirements of the Bank Secrecy
11 Act; and

12 “(2) to support the implementation of respon-
13 sible innovation and new technology, in a manner
14 that complies with the requirements of the Bank Se-
15 crecy Act.

16 “(d) FINCEN LAB.—The Innovation Lab established
17 under subsection (a) within the Department of the Treas-
18 ury shall be a lab within the Financial Crimes Enforce-
19 ment Network.

20 “(e) FINANCIAL AGENCY DEFINED.—In this section,
21 the term ‘financial agency’ means the Department of the
22 Treasury, the Board of Governors of the Federal Reserve
23 System, the Federal Deposit Insurance Corporation, the
24 National Credit Union Administration, the Office of the

1 Comptroller of the Currency, and the Securities and Ex-
2 change Commission.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for chapter 53 of title 31, United States Code, is amended
5 by inserting after the item relating to section 5326 the
6 following:

“5327. Innovation Labs.”.

7 **SEC. 303. INNOVATION COUNCIL.**

8 (a) ESTABLISHMENT.—There is established the Inno-
9 vation Council (hereinafter in this section referred to as
10 the “Council”), which shall consist of each Director of an
11 Innovation Lab established under section 302 and the Di-
12 rector of the Financial Crimes Enforcement Network.

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

16 (c) DUTY.—The members of the Council shall coordi-
17 nate on activities related to innovation under the Bank
18 Secrecy Act (as defined under section 5312 of title 31,
19 United States Code).

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

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

23 (2) may include open and closed sessions, as de-
24 termined necessary by the Council; and

1 (3) may include participation by public and pri-
2 vate entities and law enforcement agencies.

3 (e) REPORT.—The Council shall issue an annual re-
4 port to Congress on the activities of the Council during
5 the previous year and any legislative recommendations
6 that the Council may have.

7 **SEC. 304. PARALLEL RUNS RULEMAKING.**

8 Section 5318 of title 31, United States Code, as
9 amended by section 301, is further amended by adding
10 at the end the following:

11 “(q) PARALLEL RUNS RULEMAKING.—The Secretary
12 of the Treasury, in consultation with the Director of the
13 Financial Crimes Enforcement Network and the head of
14 each agency to which the Secretary has delegated duties
15 or powers under subsection (a), shall issue a rule to speci-
16 fy—

17 “(1) with respect to technology and processes
18 designed to facilitate compliance with the Bank Se-
19 crecy Act requirements, under what circumstances it
20 is necessary for a financial institution to test new
21 technology and processes alongside legacy technology
22 and processes (‘parallel runs’);

23 “(2) if parallel runs are required, what tests
24 must be completed; and

1 “(3) in what instances or under what cir-
2 cumstances a financial institution may replace or
3 terminate such legacy technology and processes for
4 any examinable technology or process.”.

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