116TH CONGRESS
1ST SESSION

S. 2563

To improve laws relating to money laundering, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

Mr. WARNER (for himself, Mr. COTTON, Mr. JONES, Mr. ROUNDS, Mr. MENENDEZ, Mr. KENNEDY, Ms. CORTEZ MASTO, and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To improve laws relating to money laundering, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Improving Laundering Laws and Increasing Comprehensive Information Tracking of Criminal Activity in Shell Holdings Act'' or the ''ILLICIT CASH Act''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The practice known as bank de-risking, whereby financial institutions avoid rather than manage anti-money-laundering and countering-the-financing-of-terrorism sanctions compliance risk, has negatively impacted the ability of nonprofit organizations to conduct lifesaving activities around the globe.

(2) Two-thirds of nonprofit organizations based in the United States with international activities face difficulties with financial access, most commonly the inability to send funds internationally through transparent, regulated financial channels.

(3) Without access to timely and predictable banking services, nonprofit organizations cannot carry out essential humanitarian activities that literally can mean life or death to affected communities.

(4) De-risking ultimately drives money into less transparent channels through carrying of cash or use of unlicensed or unregistered money service re-

mitters, thus reducing transparency and traceability, which are critical for financial integrity, and increases the risk of money falling into the wrong hands.

(5) Federal agencies must work to address de-risking through establishment of guidance enabling financial institutions to bank nonprofit organizations and promoting focused and proportionate measures consistent with a risk-based approach.

(6) The Federal Government should work cooperatively with other donor states to promote a multi-stakeholder approach to risk-sharing among governments, financial institutions, and nonprofit organizations.

(b) PURPOSES.—The purposes of this Act are—

(1) to improve coordination among the agencies tasked with administering anti-money-laundering and countering-the-financing-of-terrorism requirements, the agencies that examine financial institutions for compliance with those requirements, Federal law enforcement agencies, the intelligence community, and financial institutions;

(2) to establish beneficial ownership reporting requirements to improve transparency concerning corporate structures and insight into the flow of il-

licit funds through such structures, discourage the use of shell corporations as a tool to disguise illicit funds, assist law enforcement with the pursuit of serious crimes, and protect the national security of the United States;

(3) to modernize anti-money-laundering and counter-financing-of-terrorism laws to adapt the government and private sector response to new threats;

(4) to encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and terrorist financing; and

(5) to reinforce that the anti-money-laundering and countering-the-financing-of-terrorism policies, procedures, and controls of financial institutions shall be risk-based.

SEC. 3. DEFINITIONS.

In this Act:

(1) BANK SECRECY ACT.—The term ''Bank Secrecy Act'' means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(C) subchapter II of chapter 53 of title 31, United States Code.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' has the meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

(3) FINCEN.—The term ''FinCEN'' means the Financial Crimes Enforcement Network of the Department of the Treasury.

(4) FINANCIAL INSTITUTION.—The term ''financial institution'' has the meaning given the term in section 5312 of title 31, United States Code.

(5) SECRETARY.—The term ''Secretary'' means Secretary of the Treasury.

(6) STATE BANK SUPERVISOR.—The term ''State bank supervisor'' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that providing vital humanitarian and development assistance and protecting the integrity of the international financial system are complementary goals. As such, Congress supports the following:

(1) Effective measures to stop the flow of illicit funds and that promote the goals of anti-money laundering and countering the financing of terrorism and sanctions regimes.

(2) Anti-money laundering and countering the financing of terrorism and sanctions policies that do not hinder or delay the efforts of legitimate humanitarian organizations in providing assistance to—

(A) meet the needs of civilians facing humanitarian crisis, including access to food, health and medical care, shelter, and clean drinking water; and

(B) prevent or alleviate human suffering, in keeping with requirements of international humanitarian law.

(3) Policies that ensure that incidental, inadvertent benefits that may indirectly benefit a designated group in the course of delivering life-saving aid to civilian populations, are not the focus of the Federal Government enforcement efforts.

(4) All laws, regulations, policies, guidance and other measures that ensure the integrity of the financial system through a risk-based approach.

TITLE I—ANTI-MONEY LAUNDERING PROGRAMS AND THE FINANCIAL CRIMES ENFORCEMENT NETWORK

SEC. 101. ESTABLISHMENT OF NATIONAL EXAM AND SUPERVISION PRIORITIES.

(a) DECLARATION OF PURPOSE.—Subchapter II of chapter 53 of title 31, United States Code, is amended by striking section 5311 and inserting the following:

"§ 5311. Declaration of purpose

''It is the purpose of this subchapter (except section 5315) to—

''(1) prevent the laundering of money and the financing of terrorism through the establishment by financial institutions of reasonably designed risk-based programs to combat money laundering and terrorist financing;

''(2) facilitate the tracking of money that has been sourced through criminal activity or is intended to promote criminal or terrorist activity;

''(3) protect the integrity of the financial system and the security of the United States;

''(4) establish appropriate frameworks for information sharing among financial institutions, their agent and service providers, their regulatory authori-

ties, associations of financial institutions, the Financial Crimes Enforcement Network, and law enforcement authorities to identify, stop, and apprehend money launderers and those who finance terrorists; and

''(5) require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against terrorism.''.

(b) ANTI-MONEY LAUNDERING PROGRAMS.—Section 5318 of title 31, United States Code, is amended—

(1) in subsection (a)(1), by striking ''subsection (b)(2)'' and inserting ''subsections (b)(2) and (h)(4)''; and

(2) in subsection (h)—

(A) in paragraph (1)—

(i) by inserting ''and terrorist financing'' after ''money laundering''; and

(ii) by inserting ''and combating the financing of terrorism'' after ''anti-money laundering'';

(B) in paragraph (2)—

(i) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(B) FACTORS.—In establishing rules, regulations and guidance under subparagraph (A), and in supervising and examining compliance with those rules, the Secretary of the Treasury, and the Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809)) shall take into account the following:

''(i) Financial institutions are spending private dollars for a public and private benefit.

''(ii) The extension of financial services to the underbanked in the United States and abroad is a policy goal of the United States.

''(iii) Effective anti-money-laundering and combating-the-financing-of-terrorism programs generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting

law enforcement with the identification and prosecution of persons attempting to launder money and other illicit activity through the financial system.

''(iv) Anti-money-laundering and combating-the-financing-of-terrorism programs described in paragraph (1) should be reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations issued hereunder, which should be risk based, including that more financial institution attention and resources should be directed toward higher risk customers and activities, consistent with the risk profile of a financial institution, rather than lower risk customers and activities.''; and

(C) by adding at the end the following:

''(4) PRIORITIES.—

''(A) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Secretary of the Treasury, in consultation with the Attorney General, Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C.

6809)), relevant State financial regulators, national security agencies, and the Secretary of Homeland Security, shall establish and make public priorities for anti-money laundering and counter terrorist financing policy.

''(B) UPDATES.—Once every 4 years, the Secretary of the Treasury shall, in consultation with the Attorney General, Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809)), relevant State financial regulators, national security agencies, and the Secretary of Homeland Security update the priorities established under subparagraph (A).

''(C) RELATION TO NATIONAL STRATEGY.—The Secretary of the Treasury shall ensure that the priorities established under subparagraph (A) are consistent with the national strategy for combating the financing of terrorism and related forms of illicit finance developed under section 261 of the Countering Russian Influence in Europe and Eurasia Act of 2017 (Public Law 115–44; 131 Stat. 934).

''(D) RULEMAKING.—Not later than 120 days after the establishment of the priorities

under subparagraph (A), the Secretary of the Treasury acting through the Office of Terrorism and Financial Intelligence, in consultation with the Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809)), and relevant State financial regulators, shall issue regulations to carry out this paragraph.

''(E) SUPERVISION AND EXAMINATION.—The review by a financial institution of the priorities established under subparagraph (A) and the incorporation of those priorities, as appropriate, into the risk-based programs established by a financial institution to meet obligations under this subchapter, the USA PATRIOT Act (Public Law 107–56; 115 Stat. 272), and other anti-money-laundering and counter-terrorist-financing laws and regulations shall be included as a measure on which a financial institution is supervised and examined for compliance with those obligations.''.

(c) FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section 310(b)(2) of title 31, United States Code, is amended by adding at the end the following:

''(K) Promulgate regulations under section 5318(h)(4)(D), to implement the government-wide anti-money-laundering and counter-terrorist-financing examination and supervision priorities established by the Secretary of the Treasury under section 5318(h)(4)(A).

''(L) Communicate regularly with financial institutions and Federal functional regulators that examine financial institutions for compliance with subchapter II of chapter 53 and regulations issued thereunder and law enforcement authorities to explain the Government's anti-money-laundering and counter-terrorist-financing exam and supervision priorities.

''(M) Give and receive feedback to and from financial institutions and State bank supervisors regarding the matters addressed in subchapter II of chapter 53 and regulations issued thereunder.

''(N) Maintain a money laundering and terrorist financing investigations team comprised of financial experts capable of identifying, tracking, and tracing financial crime networks and identifying emerging threats to con-

duct and support Federal civil and criminal investigations.

''(O) Maintain an emerging technology team comprised of technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions counter money laundering and terrorist financing.''.

SEC. 102. FINCEN COMPENSATION.

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

(1) by redesignating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following:

''(d) EMPLOYEE COMPENSATION.—In fixing the compensation for employees of FinCEN, the Secretary shall—

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

''(2) ensure that such compensation is comparable to the compensation provided by the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Fed-

eral Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.''.

SEC. 103. SUBCOMMITTEE ON INNOVATION; INVESTIGATOR RESEARCH HUB.

(a) SUBCOMMITTEE ON INNOVATION.—Section 1564 of the Annunzio-Wylie Anti-Money Laundering Act (31 U.S.C. 5311 note) is amended by adding at the end the following:

''(d) SUBCOMMITTEE ON INNOVATION.—

''(1) IN GENERAL.—There shall be within the Bank Secrecy Act Advisory Group a subcommittee to be known as the 'Subcommittee on Innovation' to—

''(A) advise the Secretary of the Treasury regarding means by which the Department of the Treasury, FinCEN, and the Federal functional regulators can most effectively encourage and support technological innovation in the area of anti-money laundering; and

''(B) reduce as much as is possible obstacles to innovation that may arise from existing regulations, guidance, and examination practices related to compliance of financial institutions with the Bank Secrecy Act.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The subcommittee established under paragraph (1) shall consist of the representatives of the heads of the Federal functional regulators, a representative cross-section of financial institutions subject to the Bank Secrecy Act, law enforcement, and FinCEN.

''(B) REQUIREMENTS.—Each agency representative described in subparagraph (A) shall be an individual who has demonstrated knowledge and competence concerning the application of the Bank Secrecy Act.''.

(b) INVESTIGATOR RESEARCH HUB.—Section 310 of title 31, United States Code, as amended by section 102 of this Act, is amended by adding after subsection (d) the following:

''(e) INVESTIGATIVE EXPERTS.—

''(1) IN GENERAL.—FinCEN shall hire and maintain a team of financial experts capable of identifying, tracking, and tracing money laundering and terrorist-financing networks in order to conduct and support civil and criminal anti-money-laundering and combating-the-financing-of-terrorism investigations conducted by the United States Government,

except that the Inspector General of the Department of the Treasury shall be responsible for hiring and maintaining those experts with respect to audits and inspections of the access and use of data described in subchapter II of chapter 53.

''(2) INVESTIGATIVE RESOURCE HUB.—FinCEN shall, upon a reasonable request from a United States Government agency, require financial experts to, in collaboration with the requesting agency, investigate the potential anti-money-laundering and countering-the-financing-of-terrorism activity that prompted the request.

''(3) STAFFING.—FinCEN shall hire or retain full-time employees, including trained investigative personnel accorded criminal authority and experienced with subchapter II of chapter 53 to perform the functions contemplated by this subsection, except as provided in paragraph (1).''.

SEC. 104. ESTABLISHMENT OF FINCEN FINANCIAL INSTITUTION LIAISON.

Section 310 of title 31, United States Code, as amended by sections 102 and 103 of this Act, is amended by adding after subsection (e) the following:

''(f) OFFICE OF THE FINANCIAL INSTITUTION LIAISON ESTABLISHED.—There is established within FinCEN

the Office of the Financial Institution Liaison (in this subsection referred to as the 'Office').

''(1) IN GENERAL.—The head of the Office shall be the Liaison, who shall—

''(A) report directly to the Director; and

''(B) be appointed by the Director, from among individuals having experience or familiarity with anti-money-laundering-program examinations, supervision and enforcement, and prior employment with financial institutions handling such matters.

''(2) COMPENSATION.—The annual rate of pay for the Liaison shall be equal to the highest rate of annual pay for other senior executives who report to the Director.

''(3) STAFF OF OFFICE.—The Liaison, with the concurrence of the Director, may retain or employ counsel, research staff, and service staff, as the Liaison deems necessary to carry out the functions, powers, and duties of the Office.

''(4) FUNCTIONS OF THE LIAISON.—

''(A) IN GENERAL.—The Liaison shall—

''(i) receive feedback from financial institutions and bank examiners regarding their examinations under the Bank Secrecy

Act and communicate that feedback to FinCEN, the Federal functional regulators, and State bank supervisors;

"(ii) help promote coordination and consistency of supervisory guidance from FinCEN, the Federal functional regulators, and State bank supervisors regarding the Bank Secrecy Act;

"(iii) act as a liaison between financial institutions and their Federal functional regulators and State bank supervisors with respect to matters involving the Bank Secrecy Act and regulations issued thereunder;

"(iv) establish safeguards to maintain the confidentiality of communications between the persons described in subparagraph (B) and the Liaison;

"(v) analyze the potential impact on financial institutions of proposed regulations of FinCEN; and

"(vi) to the extent practicable, propose to FinCEN changes in the regulations, guidance, or orders of FinCEN and to Congress any legislative or administra-

tive changes that may be appropriate to mitigate problems identified under this paragraph.

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to permit the Liaison to have authority over supervision, examination, or enforcement processes.

''(5) ACCESS TO DOCUMENTS.—FinCEN shall, to the extent practicable and consistent with appropriate safeguards for sensitive enforcement-related, pre-decisional, or deliberative information, ensure that the Liaison has full access to the documents of FinCEN, as necessary to carry out the functions of the Office.

''(6) ANNUAL REPORTS.—

''(A) IN GENERAL.—Not later than June 30 of each year after 2019, the Liaison shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Liaison for the following fiscal year and the activities of the Liaison during the immediately preceding fiscal year.

''(B) CONTENTS.—Each report required under subparagraph (A) shall include—

''(i) appropriate statistical information and full and substantive analysis;

''(ii) information on steps that the Liaison has taken during the reporting period to address feedback received by financial institutions and bank examination personnel related to examinations under the Bank Secrecy Act;

''(iii) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by financial institutions or bank examination personnel; and

''(iv) any other information, as determined appropriate by the Liaison.

''(C) SENSITIVE INFORMATION.—Notwithstanding subparagraph (D), FinCEN shall review the report listed in subparagraph (A) to ensure the report does not disclose sensitive information.

''(D) INDEPENDENCE.—

''(i) IN GENERAL.—Each report required under this subsection shall be pro-

vided directly to the Committees listed in subparagraph (A) without any prior review or comment from FinCEN, the Director, any Federal functional regulator, any State bank supervisor, or the Office of Management and Budget.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) may be construed to preclude FinCEN or any other department or agency from reviewing a report required under this subsection for the sole purpose of protecting—

''(I) sensitive information obtained by a law enforcement agency; and

''(II) classified information.

''(E) CLASSIFIED INFORMATION.—No report required under subparagraph (A) may contain classified information.''.

SEC. 105. INTERAGENCY AML-CFT PERSONNEL ROTATION PROGRAM.

(a) PURPOSE.—The purpose of this section is to increase the efficiency and effectiveness of the Federal Government by fostering greater interagency experience

among Federal Government personnel on anti-money laundering and counter-terrorist financing matters.

(b) DEFINITION.—In this section, the term ''AML-CFT Interagency Community of Interest'' means a set of positions in the Federal Government that, as designated by the Secretary, the heads of the Federal functional regulators, the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of Homeland Security, the Director of National Intelligence, the Secretary of Defense, and the heads of such other agencies as the Secretary determines to be appropriate—

(1) spans multiple agencies of the Federal Government;

(2) has significant responsibility for substantive, functional, or regional subject areas related to combating money laundering or financing of terrorism and would benefit from an integrated approach or activities across multiple agencies; and

(3) includes positions within FinCEN, the Department of the Treasury, the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security, the Department of Defense, and, if agreed to by the heads of such agencies, positions within any Federal functional regulator.

(c) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary and representatives of the Federal functional regulators, the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security, the Department of Defense, and such other agencies as the Secretary determines to be appropriate, shall develop and issue an AML-CFT personnel strategy providing policies, processes, and procedures for a program enabling the interagency rotation of personnel among positions within the AML-CFT Interagency Community of Interest.

(2) REQUIREMENTS.—The strategy required by paragraph (1) shall, at a minimum—

(A) identify a specific AML-CFT Interagency Community of Interest for the purpose of carrying out the program;

(B) designate agencies to be included or excluded from the program;

(C) define categories of positions to be covered by the program;

(D) establish processes by which the heads of relevant agencies may identify—

(i) positions within an AML-CFT Interagency Community of Interest that are available for rotation under the program; and

(ii) individual employees who are available to participate in rotational assignments under the program; and

(E) establish procedures for the program, including—

(i) any minimum or maximum periods of service for participation in the program;

(ii) any training and educational requirements associated with participation in the program;

(iii) any prerequisites or requirements for participation in the program; and

(iv) appropriate performance measures, reporting requirements, and other accountability devices for the evaluation of the program.

(d) PROGRAM REQUIREMENTS.—The policies, processes, and procedures established pursuant to subsection (c) shall, at a minimum, provide that—

(1) during each of the first 4 fiscal years after the fiscal year in which this Act is enacted—

(A) the interagency rotation program shall be carried out in at least 4 agencies participating in the AML-CFT Interagency Community of Interest; and

(B) not fewer than 20 employees in the Federal Government shall be assigned to participate in the interagency personnel rotation program;

(2) the participation of an employee in the interagency rotation program shall require the consent of the head of the agency and shall be voluntary on the part of the employee;

(3) employees selected to perform interagency rotational service are selected in a fully open and competitive manner that is consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, unless the AML-CFT Interagency Community of Interest position is otherwise exempt under another provision of law;

(4) an employee performing service in a position in another agency pursuant to the program established under this section shall be entitled to return, within a reasonable period of time after the end of the period of service, to the position held by the em-

ployee, or a corresponding or higher position, in the employing agency of the employee;

(5) an employee performing interagency rotational service shall have all the rights that would be available to the employee if the employee were detailed or assigned under a provision of law other than this section from the agency employing the employee to the agency in which the position in which the employee is serving is located; and

(6) an employee participating in the program shall receive performance evaluations from officials of the employing agency of the employee that are based on input from the supervisors of the employee during the service of the employee in the program that are—

(A) based primarily on the contribution of the employee to the work of the agency in which the employee performed the service; and

(B) provided the same weight in the receipt of promotions and other rewards by the employee from the employing agency as performance evaluations for service in the employing agency.

(e) SELECTION OF INDIVIDUALS TO FILL SENIOR POSITIONS.—The head of each agency participating in the

program established pursuant to subsection (c) shall ensure that, in selecting individuals to fill senior positions within the AML-CFT Interagency Community of Interest, the agency gives a strong preference to individuals who have performed interagency rotational service within the AML-CFT Interagency Community of Interest pursuant to such program.

SEC. 106. SUBCOMMITTEE ON PRIVACY AND CIVIL LIBERTIES.

Section 1564 of the Annunzio-Wylie Anti-Money Laundering Act (31 U.S.C. 5311 note), as amended by section 103 of this Act, is amended by adding at the end the following:

''(e) SUBCOMMITTEE ON PRIVACY AND CIVIL LIBERTIES.—

''(1) IN GENERAL.—There shall be within the Bank Secrecy Act Advisory Group a subcommittee to be known as the 'Subcommittee on Privacy and Civil Liberties', to advise the Secretary of the Treasury regarding the civil liberties and privacy implications of regulations, guidance, information sharing programs, and the examination for compliance with and enforcement of the provisions of the Bank Secrecy Act.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The subcommittee established under paragraph (1) shall consist of the representatives of the heads of the Federal functional regulators, a representative cross-section of financial institutions subject to the Bank Secrecy Act, law enforcement, and FinCEN.

''(B) REQUIREMENTS.—Each agency representative described in subparagraph (A) shall be an individual who has demonstrated knowledge and competence concerning the application of the Bank Secrecy Act and familiarity with and expertise in applicable privacy laws.

''(f) DEFINITIONS.—In this section:

''(1) BANK SECRECY ACT.—the term 'Bank Secrecy Act' has the meaning given the term in section 3 of the ILLICIT CASH Act.

''(2) FEDERAL FUNCTIONAL REGULATOR.—The term 'Federal functional regulator' has the meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

''(3) FINCEN.—The term 'FinCEN' means the Financial Crimes Enforcement Network of the Department of the Treasury.

"(4) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given the term in section 5312 of title 31, United States Code.".

SEC. 107. INTERNATIONAL COORDINATION.

The Secretary shall work with the foreign counterparts of the Secretary, including through the Financial Action Task Force, the International Monetary Fund, the World Bank, and the United Nations, to promote stronger anti-money laundering frameworks and enforcement of anti-money laundering laws.

SEC. 108. STRENGTHENING FINCEN.

(a) FINDINGS.—Congress finds the following:

(1) The mission of FinCEN is to safeguard the financial system from illicit use, combat money laundering, and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

(2) In its mission to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity, the United States should prioritize working with partners in Federal, State, local, Tribal, and foreign law enforcement authorities.

(3) The Federal Bureau of Investigation has stated that, since the terror attacks on September

11, 2001, ''The threat landscape has expanded considerably, though it is important to note that the more traditional threat posed by al Qaeda and its affiliates is still present and active. The threat of domestic terrorism also remains persistent overall, with actors crossing the line from First Amendment protected rights to committing crimes to further their political agenda.''.

(4) Although the use and trading of virtual currencies are legal practices, some terrorists and criminals, including international criminal organizations, seek to exploit vulnerabilities in the global financial system and are increasingly using emerging payment methods such as virtual currencies to move illicit funds.

(5) In carrying out its mission, FinCEN should prioritize all forms of terrorism and emerging methods of terrorism and illicit finance.

(b) STRENGTHENING FINCEN.—Section 310(b)(2) of title 31, United States Code, is amended—

(1) in subparagraphs (C), (E), and (F), by inserting ''Tribal,'' after ''local,'' each place the term appears; and

(2) in subparagraph (C)(vi), by striking ''international''.

TITLE II—IMPROVING AML-CFT COMMUNICATION, OVERSIGHT, AND PROCESSES

SEC. 201. ANNUAL REPORTING REQUIREMENTS.

(a) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Attorney General, in consultation with Federal law enforcement agencies and the Director of National Intelligence, shall, to the extent practicable at the discretion of the Attorney General, provide to the Secretary statistics, metrics, and other information on the use of data derived from financial institutions reporting under this title, including—

(1) the frequency with which such data contains actionable information that leads to further law enforcement procedures, including the use of a subpoena, warrant, or other legal process, or to actions taken by intelligence, defense, or homeland security agencies;

(2) calculations of the time between when data is reported by a financial institution and when it is used by law enforcement, intelligence, defense, or homeland security agencies, whether through the use of a subpoena, warrant or other legal process, or actions;

(3) the value of the transactions associated with such data, including whether the suspicious accounts were held by legal entities or natural persons, and whether there are trends and patterns in cross-border transactions to certain countries;

(4) the number of legal and natural persons identified by such data;

(5) information on the extent to which arrests, indictments, convictions, or criminal pleas, civil enforcement or forfeiture actions, or actions by intelligence, defense, or homeland security agencies result from the use of such data; and

(6) data on the investigations carried out by State and Federal authorities.

(b) QUINQUENNIAL REPORT.—Every 5 years after the date of enactment of this Act, the report described in subsection (a) shall include a section describing the use of data derived from financial institution reporting under this subchapter over the previous 5 years, including describing long-term trends and providing long-term statistics, metrics, and other information.

(c) TRENDS, PATTERNS, AND THREATS.—The report described in subsection (a) and the section described in subsection (b) shall contain a description of retrospective trends and emerging patterns and threats in money laun-

dering and terrorist financing, including national and regional trends, patterns, and threats relevant to such classes of financial institutions that the Attorney General determines appropriate.

(d) USE OF REPORT INFORMATION.—The Secretary shall use the information reported under subsections (a), (b), and (c)—

(1) to help assess the usefulness of Bank Secrecy Act reporting to criminal and civil law enforcement and to intelligence, defense, and homeland security agencies;

(2) to enhance feedback and communications with financial institutions and other entities subject to Bank Secrecy Act requirements, including through providing more detail in the reports produced under section 314(d) of the USA PATRIOT Act (31 U.S.C. 5311 note);

(3) to assist FinCEN in considering revisions to the reporting requirements promulgated under section 314(d) of the USA PATRIOT Act (31 U.S.C. 5311 note); and

(4) for any other purpose the Secretary determines is appropriate.

SEC. 202. LAW ENFORCEMENT FEEDBACK ON SUSPICIOUS ACTIVITY REPORTS.

(a) FEEDBACK.—The staff of FinCEN shall, to the extent practicable, periodically solicit feedback from individuals designated under section 5318(h)(1) of title 31, United States Code, from a variety of financial institutions representing a cross-section of the reporting industry to review the suspicious activity reports filed by the financial institutions and discuss trends in suspicious activity observed by FinCEN.

(1) FEEDBACK REQUIRED.—The staff of FinCEN shall disclose to the persons designated under section 5318(h)(1) of title 31, United States Code, what actions have been taken, if any, by Federal or State criminal or civil law enforcement or by defense or homeland security agencies with respect to the suspicious activity reports filed by the financial institution during the previous period.

(2) EXCEPTION FOR ONGOING INVESTIGATIONS.—FinCEN shall not be required to disclose to the financial institution any information under subsection (a)(1) that could jeopardize an ongoing investigation or national security.

(3) MAINTENANCE OF STATISTICS.—FinCEN shall keep records of all such actions taken under paragraph (1) to assist with the production of the

reports described in section 201 and for other purposes.

(b) COORDINATION WITH FEDERAL FUNCTIONAL REGULATORS AND STATE BANK SUPERVISORS.—Any meeting described in subsection (a) shall be conducted in the presence of the Federal functional regulators or the State bank supervisor of the financial institution and, if applicable, during the regularly scheduled examination of the financial institution by the Federal functional regulator or State bank supervisor.

(c) COORDINATION WITH DEPARTMENT OF JUSTICE.—The information disclosed by FinCEN under subsection (a) shall include information from the Department of Justice regarding its review and use of suspicious activity reports filed by the financial institutions during the previous period and any trends in suspicious activity observed by the Department of Justice, and such information shall include information specifically relevant to reports filed by such financial institution in the previous period and other information tailored to such financial institution.

SEC. 203. STREAMLINING REQUIREMENTS FOR CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITY REPORTS.

(a) REVIEW.—The Secretary, in consultation with the Attorney General, Federal law enforcement agencies, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, the Federal functional regulators, State bank supervisors, and other relevant stakeholders, shall undertake a formal review of the current financial institution reporting requirements, including the processes used to submit reports, under the Bank Secrecy Act, regulations implementing that Act, and related guidance, and make changes to them to reduce unnecessarily burdensome regulatory requirements and ensure that the information provided is highly useful to law enforcement, intelligence, or national security matters, as set forth in section 5311 of title 31, United States Code.

(b) CONTENTS.—The review required under subsection (a) shall include a study of—

(1) whether the circumstances under which a financial institution determines whether to file a continuing suspicious activity report, including insider abuse, or the processes followed by a financial institution in determining whether to file a continuing suspicious activity report, or both, should be adjusted;

(2) whether different thresholds should apply to different categories of activities;

(3) the fields designated as critical on the suspicious activity report form and whether the number or nature of the fields should be adjusted;

(4) the categories, types, and characteristics of suspicious activity reports and currency transaction reports that are of the greatest value to, and that best support, investigative priorities of law enforcement and national security personnel;

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

(6) the most appropriate ways to promote financial inclusion and address the adverse consequences of financial institutions de-risking entire categories of high-risk relationships, including charities, embassy accounts, and money service businesses, as defined in section 1010.100(ff) of title 31, Code of Federal Regulations, and certain groups of correspondent banks;

(7) the current financial institution reporting requirements under the Bank Secrecy Act and regulations and guidance implementing that Act;

(8) whether the process for the electronic submission of reports could be improved for both financial institutions and law enforcement, including by allowing greater integration between financial institution systems and the electronic filing system to allow for automatic population of report fields and the automatic submission of transaction data for suspicious transactions;

(9) the appropriate confidentiality of personal information;

(10) how to improve the cross-referencing of individuals or entities operating at multiple financial institutions and across international borders; and

(11) any other item the Secretary determines is appropriate.

(c) PUBLIC COMMENT.—The Secretary shall solicit public comment as part of the review contemplated in subsection (a).

(d) REPORT.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with law enforcement, shall submit to Congress a report that contains all findings and determinations made in carrying out the review required under subsection (a) and propose rulemakings to implement their findings.

SEC. 204. CURRENCY TRANSACTION REPORT AND SUSPICIOUS ACTIVITY REPORT THRESHOLDS REVIEW.

(a) REVIEW OF THRESHOLDS FOR CERTAIN CURRENCY TRANSACTION AND SUSPICIOUS ACTIVITY REPORTS.—The Secretary, in consultation with the Attorney General and the Director of National Intelligence, the Secretary of Defense, and the Secretary of Homeland Security, shall study and determine whether the dollar thresholds, including aggregate thresholds, contained in sections 5313, 5331, and 5318(g) of title 31, United States Code, including regulations issued thereunder, should be adjusted.

(b) CONSIDERATIONS.—In making the determinations described in subsection (a), the Secretary and the Attorney General shall consider—

(1) the effects on law enforcement, intelligence, defense, and homeland security, from adjusting the thresholds;

(2) the costs likely to be incurred or saved by financial institutions;

(3) the conformance of the United States with international norms and standards to counter money laundering and the financing of terrorism; and

(4) any other factor the Secretary, Director of National Intelligence, and the Attorney General considers relevant.

(c) PUBLIC COMMENT.—The Secretary shall solicit public comment as part of the review contemplated in subsection (a).

(d) REPORT AND RULEMAKINGS.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Secretary, in consultation with the Attorney General, the intelligence community, the Secretary of Defense, and the Secretary of Homeland Security, shall publish a report of the findings from the review described in subsection (a) and recommend rulemakings to implement the findings.

SEC. 205. REVIEW OF REGULATIONS AND GUIDANCE.

(a) IN GENERAL.—The Secretary and the Federal functional regulators, in consultation with Federal financial regulators, the Federal Financial Institutions Examination Council, the Attorney General, Federal law enforcement agencies, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, and the Commissioner of the Internal Revenue Service, shall each undertake a formal review of the regulations implementing the Bank Secrecy Act, and guidance related to that Act, to identify those regulations and guid-

ance that may be outdated, redundant, unnecessarily burdensome, or otherwise do not promote a risk-based anti-money-laundering compliance and countering-the-financing-of-terrorism regime for financial institutions, or that do not conform with the commitments of the United States to meet international standards to combat money laundering, financing of terrorism, or tax evasion, and make appropriate changes to those regulations and guidance.

(b) PUBLIC COMMENT.—The Secretary shall solicit public comment as part of the review required under subsection (a).

(c) REPORT.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary, the Federal functional regulators, the Federal Financial Institutions Examination Council, and the Internal Revenue Service shall submit to Congress one or more reports that contain all findings and determinations made in carrying out the review required under subsection (a).

SEC. 206. PENALTY COORDINATION.

(a) COORDINATION ON PENALTIES.—Prior to any Federal functional regulator, FinCEN, or the Department of Justice, including any organizational unit thereof, issuing a fine or civil money penalty, with respect to an

entity to address any actual or alleged violation of any provision of the Bank Secrecy Act or section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)) or any unsafe or unsound practice that resulted in any such actual or alleged violation, such Federal department or agency shall endeavor to coordinate its penalty with all relevant Federal departments and agencies and State law enforcement and financial regulators contemplating a penalty with respect to the same or similar conduct and attempt to develop a comprehensive or coordinated penalty or set of penalties to avoid duplicative fines, penalties, and other orders or actions.

(b) EXCEPTION.—Subsection (a) shall not apply if—

(1) a Federal or State financial regulator determines that complying with subsection (a) is impractical for safety or soundness reasons; or

(2) a Federal law enforcement or a national security agency determines that complying with subsection (a) is impractical for Federal law enforcement or national security reasons or for purposes related to the administration of the Bank Secrecy Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the amount of a fine or the type of penalty that may be issued by any Federal or State entity with authority to issue a fine or penalty.

(d) NO RIGHTS.—Nothing in this section provides persons with any rights or privileges, including a private right of action or an affirmative defense, and no determination or failure to make a determination by any Federal entity or officer under this section shall be reviewable by a court of law.

SEC. 207. COOPERATION WITH LAW ENFORCEMENT.

(a) SAFE HARBOR WITH RESPECT TO KEEP OPEN DIRECTIVES.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 31.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"§ 5333. Safe harbor with respect to keep open directives

''(a) IN GENERAL.—With respect to a customer account or customer transaction of a financial institution, if a Federal, State, Tribal, or local law enforcement agency requests, in writing, that the financial institution keep that account or transaction open—

''(1) the financial institution shall not be liable under this subchapter for maintaining that account or transaction consistent with the parameters of the request; and

''(2) no Federal or State department or agency may take any adverse supervisory action under this subchapter with respect to the financial institution for maintaining that account or transaction consistent with the parameters of the request.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

''(1) to prevent a Federal or State department or agency from verifying the validity of a written request described in subsection (a) with the Federal, State, Tribal, or local law enforcement agency making that written request; or

''(2) to relieve a financial institution from complying with any reporting requirements, including the reporting of suspicious transactions under section 5318(g).

''(c) LETTER TERMINATION DATE.—For the purposes of this section, any written request described in subsection (a) shall include a termination date after which that request shall no longer apply.''.

(B) AMENDMENT TO PUBLIC LAW 91–508.—Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended by adding at the end the following:

"§ 130. Safe harbor with respect to keep open directives

''(a) DEFINITION.—In this section, the term 'financial institution' has the meaning given the term in section 123(b).

''(b) SAFE HARBOR.—With respect to a customer account or customer transaction of a financial institution, if a Federal, State, Tribal, or local law enforcement agency requests, in writing, the financial institution to keep that account or transaction open—

''(1) the financial institution shall not be liable under this chapter for maintaining that account or transaction consistent with the parameters of the request; and

''(2) no Federal or State department or agency may take any adverse supervisory action under this chapter with respect to the financial institution for maintaining that account or transaction consistent with the parameters of the request.

''(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

''(1) as preventing a Federal or State department or agency from verifying the validity of a written request described in subsection (b) with the Federal, State, Tribal, or local law enforcement agency making that written request; or

''(2) to relieve a financial institution from complying with any reporting requirements, including the reporting of suspicious transactions under section 5318(g) of title 31, United States Code.

''(d) LETTER TERMINATION DATE.—For the purposes of this section, any written request described in subsection (b) shall include a termination date after which that request shall no longer apply.''.

(2) CLERICAL AMENDMENTS.—

(A) TITLE 31.—The table of contents for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5332 the following:

''5333. Safe harbor with respect to keep open directives.''.

(B) PUBLIC LAW 91–508.—The table of contents for chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended by adding at the end the following:

''130. Safe harbor with respect to keep open directives.''.

(b) DETERMINATION OF BUDGETARY EFFECTS.—The budgetary effects of this section, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, pro-

vided that such statement has been submitted prior to the vote on passage.

SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SECRECY ACT VIOLATORS.

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

''(f) ADDITIONAL DAMAGES FOR REPEAT VIOLATORS.—In addition to any other fines permitted by this section and section 5322, with respect to a person who has previously violated a provision of (or rule issued under) this subchapter, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or section 123 of Public Law 91–508, the Secretary of the Treasury may impose an additional civil penalty against such person for each additional such violation in an amount equal to up to three times the profit gained or loss avoided by such person as a result of the violation.''.

SEC. 209. ENCOURAGING INFORMATION SHARING AND PUBLIC-PRIVATE PARTNERSHIPS.

(a) IN GENERAL.—FinCEN shall convene a supervisory team of relevant Federal agencies, private sector experts in banking, national security and law enforcement, and other stakeholders as FinCEN deems appropriate to examine strategies to increase public-private sector co-

operation for purposes of countering proliferation finance and sanctions evasion.

(b) MEETINGS.—The supervisory team shall meet periodically to advise on strategies to combat proliferation financing risk.

TITLE III—MODERNIZATION OF AML/CFT SYSTEM

SEC. 301. APPROVED SYSTEMS FOR IDENTIFYING SUSPICIOUS ACTIVITIES.

Section 5318(g) of title 31, United States Code, is amended by adding at the end the following:

''(5) CONSIDERATIONS IN IMPOSING REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—In imposing any requirement to report any suspicious transaction under this subsection, the Secretary of the Treasury, in consultation with appropriate representatives of State bank supervisors and the Federal functional regulators (as defined in 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), shall address, consider, and include—

''(i) the national priorities established by the Secretary;

''(ii) whether the reporting is likely to have a high degree of usefulness to the

Federal law enforcement community, national security, and the intelligence community in combating financial crime, including the financing of terrorism; and

''(iii) the means by or form in which the Secretary shall receive such reporting, including the burdens imposed by such means or form of reporting on persons required to provide such reporting, the efficiency of the means by or form of reporting, and the benefits derived by such means or form of reporting by the Federal law enforcement community and the intelligence community in combating financial crime, including the financing of terrorism.

''(B) INTERNAL CONTROLS.—Reports filed under this subsection shall be guided by the internal controls of the compliance program of a covered institution with respect to the Bank Secrecy Act, including the risk assessment processes of the covered institution that should include a consideration of priority areas as established by the Secretary of the Treasury pursuant to section 5311.

"(C) EXAMINATIONS.—Examinations of systems for identifying and reporting of suspicious activities shall consider, among other things, the quality of information provided under this section and the institution's consideration of priority areas as established by the Secretary of the Treasury pursuant to section 5311.

"(D) BULK-FORM DATA AND REAL-TIME REPORTING.—

"(i) REQUIREMENT TO ESTABLISH SYSTEM.—In considering the means by or form in which the Secretary of the Treasury shall receive reporting pursuant to subparagraph (A)(iii) the Secretary of the Treasury, through the Financial Crimes Enforcement Network, and in consultation with appropriate representatives of the State bank supervisors and Federal functional regulators (as defined in 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)) shall—

"(I) establish streamlined processes to permit the filing of non-complex categories of reports that—

''(aa) reduce burdens imposed on persons required to report; and

''(bb) do not diminish the usefulness of the reporting to Federal law enforcement agencies and the intelligence community in combating financial crime, including the financing of terrorism;

''(II) subject to clause (ii), permit bulk data reporting for such categories of reports and establish the conditions under which bulk data reporting is permitted; and

''(III) establish additional systems and processes that allow for such reporting.

''(ii) STANDARDS.—The Secretary of the Treasury—

''(I) in carrying out clause (i), shall establish standards to ensure that bulk data reports relate to suspicious transactions relevant to poten-

tial violations of law or regulation; and

"(II) in establishing the standards under subclause (I), may consider transactions designed to evade any regulation promulgated under this subchapter, certain fund and asset transfers with no apparent economic, business, or lawful purpose, and any other transaction that the Secretary determines to be appropriate.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph may be construed as precluding the Secretary of the Treasury from requiring reporting as provided for in subparagraphs (A) and (B) or notifying Federal law enforcement with respect to any transaction that the Secretary has determined directly implicates a national priority established by the Secretary.

"(6) AML TECHNOLOGY RULEMAKING.—The Secretary of the Treasury shall, in consultation with appropriate representatives of State bank supervisors and Federal functional regulators (as defined

in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), promulgate regulations to—

"(A) specify an optional regime whereby a financial institution may submit for approval by the Financial Crimes Enforcement Network, in consultation with the Federal banking agencies, a tailored comprehensive approach to monitoring transactions for the recordkeeping and reporting requirements established by this subchapter and other relevant laws;

"(B) standards that such an optional regime must meet for approval, with those standards having the primary goal of addressing anti-money-laundering-regime priorities and other significant Bank Secrecy Act and anti-money-laundering risks identified in a particular financial institution's (or association of financial institutions) risk assessment;

"(C) include in the standards described in subparagraph (B)—

"(i) an emphasis on using innovative approaches for transaction monitoring such as machine learning rather than rules-based systems;

"(ii) requirements for testing, audit, parallel runs, and ongoing quality assurance processes to ensure that these systems are working effectively, including risk-based back-testing of the regime to facilitate calibration of relevant systems;

"(iii) requirements for appropriate data privacy and security; and

"(iv) requirements for examination of these systems by the appropriate Federal or State financial regulators; and

"(D) with respect to technology and processes designed to facilitate compliance with the Bank Secrecy Act requirements that are not covered by subparagraph (A), specify that financial institutions may not be required to test new technology and processes alongside legacy technology and processes, known as parallel runs, in all cases, but instead—

"(i) should develop a risk-based implementation and testing plan, in consultation with State and Federal financial regulators as appropriate, that accounts for legal, data privacy, and security concerns that includes a reasonable testing timeline;

"(ii) should identify processes and procedures for replacing or terminating any legacy technology and process for any examinable technology or process; and

"(iii) after adequately testing compliance technology, may replace or terminate any legacy technology and processes for any examinable technology or process.

"(7) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a financial institution to alter its risk-based approach to monitoring suspicious activities.

"(8) DEFINITIONS.—In this subsection:

"(A) BANK SECRECY ACT.—The term 'Bank Secrecy Act' has the meaning given the term in section 3 of the ILLICIT CASH Act.

"(B) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).".

SEC. 302. FINANCIAL CRIMES TECH SYMPOSIUM.

(a) PURPOSE.—The purpose of this section is to—

(1) promote greater international collaboration in the effort to prevent and detect financial crimes and suspicious activities; and

(2) facilitate the investigation and adoption of new technologies aimed at preventing and detecting financial crimes and other illicit activities.

(b) PERIODIC MEETINGS.—The Secretary shall, in coordination with the Subcommittee on Innovation established under subsection (d) of section 1564 of the Annunzio-Wylie Anti-Money Laundering Act, as added by section 103 of this Act, periodically, but not less than once every 3 years, convene a global anti-money laundering and financial crime symposium focused on how new technology can be used to more effectively combat financial crimes and other illicit activities.

(c) ATTENDEES.—Attendees at the symposium convened under this section shall include domestic and international financial regulators, senior executives from regulated firms, technology providers, law enforcement representatives, start ups, academic institutions, and other representatives as the Secretary determines are appropriate.

(d) PANELS.—The Secretary shall convene panels in order to review new technologies and permit attendees to demonstrate proof of concept.

(e) IMPLEMENTATION AND REPORTS.—The Secretary shall to the extent practicable work to provide regulatory guidance regarding innovative technologies and

practices presented at the symposium, to the extent such technologies and practices further the goals of this section.

SEC. 303. DEIDENTIFIED AML INFORMATION.

(a) AMENDMENT TO THE GRAMM-LEACH-BLILEY ACT.—Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended by inserting after section 509 (15 U.S.C. 6809) the following:

"SEC. 509A. DEIDENTIFIED AML INFORMATION.

"(a) DEFINITIONS.—In this section:

"(1) CYBERSECURITY PURPOSE.—The term 'cybersecurity purpose' has the meaning given the term in section 102 of the Cybersecurity Information Sharing Act of 2015 (6 U.S.C. 1501).

"(2) DEIDENTIFIED INFORMATION.—The term 'deidentified information' means information obtained by a financial institution from which any information that may be used to identify a person has been removed and with respect to which there is no reasonable basis to believe that the information is nonpublic personal information.

"(3) FINANCIAL INSTITUTION.—The term 'financial institution'—

"(A) has the meaning given the term in section 509; and

"(B) includes—

''(i) a subsidiary, affiliate, or other entity within the corporate organizational structure of a financial institution;

''(ii) a person representing or otherwise acting as agent for a financial institution; and

''(iii) a group or organization the membership of which is comprised entirely of financial institutions.

''(4) EXCEPTIONS.—The Secretary of the Treasury by rule shall establish exceptions to paragraph (2), including setting minimum standards for information that is ineligible for consideration as deidentified information.

''(b) PROCESS.—A financial institution may determine that financial institution information is deidentified information only if—

''(1) a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable—

''(A) applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available informa-

tion, by an anticipated recipient to identify a person who is a subject of the information; and

''(B) documents the methods and results of the analysis that justify such determination; or

''(2)(A) appropriate identifiers of the person or of relatives, employers, or household members of the person, are removed; and

''(B) the financial institution does not have actual knowledge that the information could be used alone or in combination with other information to identify a person who is a subject of the information.

''(c) REIDENTIFICATION.—A financial institution may assign a code or other means of record identification to allow information deidentified under this section to be reidentified by the financial institution, provided that—

''(1) the code or other means of record identification is not derived from or related to information about the person and is not otherwise capable of being translated so as to identify the person; and

''(2) the financial institution does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for reidentification.

''(d) PERMISSIBLE USE.—

''(1) LIMITED USE OF DATA.—Deidentified information sent or received by a financial institution shall only be used—

''(A) to identify suspicious activity that may merit the filing of a suspicious activity report under section 5318(g) of title 31, United States Code;

''(B) for the purpose stated in section 5311 of title 31, United States Code; or

''(C) for a cybersecurity purpose.

''(2) NO FURTHER COMMUNICATION.—A financial institution may not transmit or share any deidentified information except with—

''(A) a financial institution in accordance with this section;

''(B) the Secretary of the Treasury;

''(C) an agency or authority referenced in section 505(a) in accordance with applicable law; and

''(D) a law enforcement agency.

''(e) ENFORCEMENT.—The owner of an approved telecommunications system shall be a 'covered person' for purposes of section 505(a)(8).

''(f) RULEMAKING.—No later than 1 year after the date of enactment of this section, the Secretary of the

Treasury, in consultation with the Secretary of Homeland Security and each agency referenced in section 505(a), shall issue regulations to carry out the amendments made by this section.

''(g) RELATION TO SUSPICIOUS ACTIVITY REPORTS.—Nothing in this section shall be construed to modify, limit, alter, or supersede section 5318(g) of title 31, United States Code, or any regulation promulgated thereunder.

''(h) RULE OF CONSTRUCTION.—

''(1) IN GENERAL.—Compliance with the provisions of this section shall not constitute a violation of other provisions of this title.

''(2) TRANSMISSION, RECEIPT, AND SHARING OF INFORMATION.—A financial institution that transmits, receives, or shares information under this section shall not be liable to any person under any law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated under this section.''.

SEC. 304. NO ACTION LETTERS.

Section 310 of title 31, United States Code, as amended by sections 102, 103, and 104 of this Act, is amended by adding at the end the following:

''(g) NO-ACTION LETTERS WITH RESPECT TO SPECIFIC CONDUCT.—

''(1) IN GENERAL.—The Director and the Federal functional regulators, in consultation with State bank supervisors, shall jointly promulgate regulations and guidance to establish a process for the issuance of a no-action letter by FinCEN and the relevant Federal functional regulators in response to an inquiry from a person described in paragraph (2) concerning the application of the Bank Secrecy Act, the USA PATRIOT Act (Public Law 107–56; 115 Stat. 272), section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), or any other anti-money-laundering or counter-terrorism financing law (including regulations) to specific conduct, which shall include a statement as to whether FinCEN or any relevant Federal functional regulator intends to take an enforcement action against the person with respect to such conduct.

''(2) PERSONS COVERED.—A person described in this paragraph is—

''(A) any person involved in the specific conduct that is the subject of the no-action letter; or

''(B) any person involved in conduct that is indistinguishable in all material aspects from the specific conduct that is the subject of the no-action letter.

''(3) RELIANCE.—A no-action letter issued under paragraph (1) shall not bind FinCEN or any Federal functional regulator if the person making the inquiry provided incomplete, misleading or false information, if subsequent changes are made to relevant statutes, regulations, or guidance, or if a penalty was assessed or enforcement action taken before the date on which the no-action letter was issued.

''(4) CONTENTS.—The regulations issued under paragraph (1) shall contain a timeline for the process used to reach a final determination by FinCEN and the relevant Federal functional regulators in response to a request by a person for a no-action letter.

''(h) DEFINITIONS.—In this section:

''(1) BANK SECRECY ACT.—the term 'Bank Secrecy Act' has the meaning given the term in section 3 of the ILLICIT CASH Act.

''(2) FEDERAL FUNCTIONAL REGULATOR.—The term 'Federal functional regulator' hast the meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

''(3) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given the term in section 5312.

''(4) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).''.

SEC. 305. OECD PILOT PROGRAM ON SHARING OF SUSPICIOUS ACTIVITY REPORTS WITHIN A FINANCIAL GROUP.

(a) IN GENERAL.—

(1) SHARING WITH FOREIGN BRANCHES AND AFFILIATES.—Section 5318(g) of title 31, United States Code, as amended by section 301, is amended by adding at the end the following:

''(6) OECD PILOT PROGRAM ON SHARING WITH FOREIGN BRANCHES, SUBSIDIARIES, AND AFFILIATES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of the Treasury shall issue

rules, subject to such controls and restrictions as the Director of the Financial Crimes Enforcement Network determines appropriate, establishing the pilot program described under subparagraph (B). In prescribing such rules, the Secretary shall ensure that the sharing of information described under subparagraph (B) is subject to appropriate standards and requirements regarding data security and the confidentiality of personally identifiable information.

''(B) PILOT PROGRAM DESCRIBED.—The pilot program required under this paragraph shall—

''(i) permit any financial institution with a reporting obligation under this subsection to share reports (and information on such reports) under this subsection with the institution's foreign branches, subsidiaries, and affiliates for the purpose of combating illicit finance risks, notwithstanding any other provision of law except subparagraph (C), but only if such foreign branch, subsidiary, or affiliate is located in a jurisdiction that is a member of the

Organisation for Economic Co-operation and Development;

''(ii) terminate on the date that is 5 years after the date of enactment of this paragraph, except that the Secretary of the Treasury may extend the pilot program for up to two years upon submitting a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

''(I) a certification that the extension is in the national interest of the United States, with a detailed explanation of the reasons therefor;

''(II) an evaluation of the usefulness of the pilot program, including a detailed analysis of any illicit activity identified or prevented as a result of the program; and

''(III) a detailed legislative proposal providing for a long-term extension of the pilot program activities, including expected budgetary resources

for the activities, if the Secretary of the Treasury determines that a long-term extension is appropriate.

''(C) PROHIBITION INVOLVING CERTAIN JURISDICTIONS.—In issuing the regulations required under subparagraph (A), the Secretary of the Treasury may not permit a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in a jurisdiction that—

''(i) is subject to countermeasures imposed by the Federal Government; or

''(ii) the Secretary has determined cannot reasonably protect the privacy and confidentiality of such information.

''(D) IMPLEMENTATION UPDATES.—Not later than 360 days after the date on which rules are issued under subparagraph (A), and annually thereafter for 3 years, the Secretary of the Treasury, or the Secretary's designee, shall brief the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

''(i) the degree of any information sharing permitted under the pilot program, and a description of criteria used by the Secretary to evaluate the appropriateness of the information sharing;

''(ii) the effectiveness of the pilot program in identifying or preventing the violation of a United States law or regulation, and mechanisms that may improve such effectiveness; and

''(iii) any recommendations to amend the design of the pilot program, or to include specific non-Organisation for Economic Co-operation and Development jurisdictions in the program.

''(7) 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).

''(8) DEFINITION.—In this subsection, the term 'affiliate' means an entity that controls, is controlled

by, or is under common control with another entity.''.

(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 reveal that the transaction has been reported, including materials prepared or used by the financial institution for the purpose of identifying and detecting potentially suspicious activity''; and

(B) in clause (ii), by inserting after ''transaction has been reported,'' the following: ''or otherwise reveal any information that would reveal that the transaction has been reported, including materials prepared or used by the financial institution for the purpose of identifying and detecting potentially suspicious activity,''.

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

SEC. 306. FOREIGN EVIDENTIARY REQUESTS.

(a) FOREIGN EVIDENTIARY REQUESTS.—Section 5318(k)(3)(A) of title 31, United States Code, is amended by adding at the end the following:

''(iii) USE AS EVIDENCE.—If required by a summons or subpoena referred to in clause (i), the foreign bank on which the summons or subpoena was served shall produce the records described in the summons or subpoena in a manner that would establish their authenticity and reliability under the Federal Rules of Evidence.

''(iv) ANTI-TIP-OFF.—Any foreign bank upon which a summons or subpoena referred to in clause (i) has been served, and any director, officer, employee, or agent of such foreign bank, shall not voluntarily disclose to a person not employed by the foreign bank the fact that it received a summons or subpoena or any of the information contained in that summons or subpoena.''.

(b) FOREIGN EVIDENTIARY REQUESTS.—Section 5318(k)(3) of title 31, United States Code, is amended by adding at the end the following:

''(D) COURT ORDERS AND CONTEMPT.—

''(i) COURT ORDERS.—If the Secretary of the Treasury or the Attorney General (in each case, in consultation with the other) determines that a foreign bank has failed to comply with a summons or subpoena issued under subparagraph (A), the Secretary or the Attorney General (in each case, in consultation with the other) may initiate proceedings in a United States court seeking a court order to compel compliance with such summons or subpoena.

''(ii) CONTEMPT.—If the Secretary of the Treasury or the Attorney General (in each case, in consultation with the other) determines that a foreign bank has failed to comply with a court order described in clause (i), the Secretary or the Attorney General (in each case, in consultation with the other) may petition the United States court that issued the court order to levy a civil or criminal contempt fine on the foreign bank.''.

SEC. 307. UPDATING WHISTLEBLOWER INCENTIVES AND PROTECTION.

(a) WHISTLEBLOWER INCENTIVES AND PROTECTION.—

(1) IN GENERAL.—Section 5323 of title 31, United States Code, is amended to read as follows:

"§ 5323. Whistleblower incentives and protections

''(a) DEFINITIONS.—In this section:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by the Treasury or the Department of Justice under subchapters II and III of this title that results in monetary sanctions exceeding $1,000,000.

''(2) FUND.—The term 'Fund' means the Anti-Money Laundering and Counter-Terrorism Financing Fund.

''(3) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action, means any monies, including penalties and interest, ordered to be paid.

''(4) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to the Treasury, the Department of Justice, or an appropriate regulator, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Treasury or the Department of Justice under subchapters II and III of this title, means any judicial action brought by an entity that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Treasury or Department of Justice action.

''(6) WHISTLEBLOWER.—The term 'whistleblower' means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of the laws under subchapters II and III of this title to the Treasury, in

a manner established, by rule or regulation, by the Treasury.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial action, or related action, the Treasury, under regulations prescribed by the Treasury and subject to subsection (c), may pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Treasury that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

''(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

''(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

''(2) PAYMENT OF AWARDS.—Any amount paid under paragraph (1) shall be paid from the Fund.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Treasury.

''(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Treasury—

''(i) shall take into consideration—

''(I) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(II) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(III) the programmatic interest of the Treasury in deterring violations of the laws under subchapters II and III of this title by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and

''(IV) such additional relevant factors as the Treasury may establish by rule or regulation; and

''(ii) shall not take into consideration the balance of the Fund.

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

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Treasury, a member, officer, or employee of—

''(i) an appropriate regulatory agency;

''(ii) the Department of Justice or the Treasury;

''(iii) a self-regulatory organization; or

''(iv) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section; or

''(C) to any whistleblower who fails to submit information to the Treasury in such form as the Treasury may, by rule, require.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (c) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Treasury may require, directly or through counsel for the whistleblower.

''(e) NO CONTRACT NECESSARY.—No contract with the Treasury is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Treasury by rule or regulation.

''(f) APPEALS.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Treasury. Any such determination, except the determination of the amount of an award if the award was made in accordance

with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Treasury. The court shall review the determination made by the Treasury in accordance with section 706 of title 5.

''(g) ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING FUND.—

''(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the 'Anti-Money Laundering and Counter-Terrorism Financing Fund'.

''(2) USE OF FUND.—The Fund shall be available to the Treasury, without further appropriation or fiscal year limitation, for paying awards to whistleblowers as provided in subsection (b).

''(3) DEPOSITS AND CREDITS.—

''(A) IN GENERAL.—There shall be deposited into or credited to the Fund an amount equal to any monetary sanction collected by the Treasury or the Department of Justice in any judicial or administrative action for violations of the law under subchapters II and III of this title and all income from investments made under paragraph (4).

''(B) ADDITIONAL AMOUNTS.—If the amounts deposited into or credited to the Fund under subparagraph (A) are not sufficient to satisfy an award made under subsection (b), there shall be deposited into or credited to the Fund an amount equal to the unsatisfied portion of the award from any monetary sanction collected by the Treasury or the Department of Justice in the covered judicial or administrative action on which the award is based.

''(4) INVESTMENTS.—

''(A) AMOUNTS IN FUND MAY BE INVESTED.—The Secretary of the Treasury may invest the portion of the Fund that is not, in the discretion of the Secretary of the Treasury, required to meet the current needs of the Fund.

''(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Treasury.

''(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from

the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.

''(5) REPORTS TO CONGRESS.—Not later than October 30 of each fiscal year, the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on—

''(A) the whistleblower award program established under this section, including—

''(i) a description of the number of awards granted; and

''(ii) the types of cases in which awards were granted during the preceding fiscal year;

''(B) the balance of the Fund at the beginning of the preceding fiscal year;

''(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;

''(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;

''(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

''(F) the balance of the Fund at the end of the preceding fiscal year; and

''(G) a complete set of audited financial statements, including—

''(i) a balance sheet;

''(ii) an income statement; and

''(iii) a cash flow analysis.

''(h) CONFIDENTIALITY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Treasury and any officer or employee of the Treasury shall not disclose any information, including information provided by a whistleblower to the Treasury, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Treasury or any entity described in paragraph (3).

''(2) EXEMPTED STATUTE.—For purposes of section 552 of title 5, paragraph (1) shall be consid-

ered a statute described in subsection (b)(3)(B) of such section 552.

''(3) RULE OF CONSTRUCTION.—Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

''(4) AVAILABILITY TO GOVERNMENT AGENCIES.—

''(A) IN GENERAL.—Without the loss of its status as confidential in the hands of the Treasury, all information referred to in paragraph (1) may, in the discretion of the Treasury, when determined by the Treasury to be necessary to accomplish the purposes of this chapter and to protect investors, be made available to—

''(i) the Attorney General of the United States or the Secretary of the Treasury;

''(ii) an appropriate regulatory authority;

''(iii) a self-regulatory organization;

''(iv) a State attorney general in connection with any criminal investigation;

''(v) any appropriate State regulatory authority;

''(vi) the Public Company Accounting Oversight Board;

''(vii) a foreign securities authority; and

''(viii) a foreign law enforcement authority.

''(B) CONFIDENTIALITY.—

''(i) IN GENERAL.—Each of the entities described in clauses (i) through (vi) of subparagraph (A) shall maintain such information as confidential in accordance with the requirements established under paragraph (1).

''(ii) FOREIGN AUTHORITIES.—Each of the entities described in clauses (vii) and (viii) of subparagraph (A) shall maintain such information in accordance with such assurances of confidentiality as the Treasury determines appropriate.

''(iii) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish

the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

''(i) PROVISION OF FALSE INFORMATION.—A whistleblower shall not be entitled to an award under this section if the whistleblower—

''(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

''(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

''(j) RULEMAKING AUTHORITY.—The Treasury shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5323 and inserting the following:

''5323. Whistleblower incentives and protections.''.

SEC. 308. VALUE THAT SUBSTITUTES CURRENCY OR FUNDS.

(a) DEFINITIONS.—Section 5312(a)(2) of title 31, United States Code, is amended—

(1) in subparagraph (J), by inserting ", or a business engaged in the exchange of currency, funds, or value that substitutes for currency or funds" before the semicolon at the end; and

(2) in subparagraph (R), by striking "funds," and inserting "currency, funds, or value that substitutes for currency or funds,".

(b) REGISTRATION OF MONEY TRANSMITTING BUSINESSES.—Section 5330(d) of title 31, United States Code, is amended—

(1) in paragraph (1)(A), by striking "funds," and inserting "currency, funds, or value that substitutes for currency or funds,"; and

(2) in paragraph (2)—

(A) by striking "currency or funds denominated in the currency of any country" and inserting "currency, funds, or value that substitutes for currency or funds"; and

(B) by inserting ", including" after "means".

SEC. 309. FIGHT ILLICIT NETWORKS AND DETECT TRAFFICKING.

(a) FINDINGS.—Congress finds the following:

(1) According to the Drug Enforcement Administration 2017 National Drug Threat Assessment, transnational criminal organizations are increasingly using virtual currencies.

(2) The Department of the Treasury has recognized that ''[t]he development of virtual currencies is an attempt to meet a legitimate market demand. According to a Federal Reserve Bank of Chicago economist, United States consumers want payment options that are versatile and that provide immediate finality. No United States payment method meets that description, although cash may come closest. Virtual currencies can mimic cash's immediate finality and anonymity and are more versatile than cash for online and cross-border transactions, making virtual currencies vulnerable for illicit transactions.''.

(3) Virtual currencies have become a prominent method to pay for goods and services associated with illegal human trafficking and drug trafficking, which are two of the most detrimental and troubling illegal activities facilitated by online marketplaces.

(4) Online marketplaces, including the dark web, have become a prominent platform to buy, sell,

and advertise for illicit goods and services associated with human trafficking and drug trafficking.

(5) According to the International Labour Organization, in 2016, 4,800,000 people in the world were victims of forced sexual exploitation, and in 2014, the global profit from commercial sexual exploitation was $99,000,000,000.

(6) In 2016, within the United States, the Centers for Disease Control and Prevention estimated that there were 64,000 deaths related to drug overdose, and the most severe increase in drug overdoses were those associated with fentanyl and fentanyl analogs (synthetic opioids), which amounted to over 20,000 overdose deaths.

(7) According to the Department of the Treasury's 2015 National Money Laundering Risk Assessment, an estimated $64,000,000,000 is generated annually from United States drug trafficking sales.

(8) Illegal fentanyl in the United States originates primarily from China, and it is readily available to purchase through online marketplaces.

(b) DEFINITION.—In this section, the term ''human trafficking'' has the meaning given the term ''severe forms of trafficking in persons'' in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study on how virtual currencies and online marketplaces are used to facilitate human and drug trafficking. The study shall consider—

(1) how online marketplaces, including the dark web, are being used as platforms to buy, sell, or facilitate the financing of goods or services associated with human trafficking or drug trafficking (specifically, opioids and synthetic opioids, including fentanyl, fentanyl analogs, and any precursor chemicals associated with manufacturing fentanyl or fentanyl analogs) destined for, originating from, or within the United States;

(2) how financial payment methods, including virtual currencies and peer-to-peer mobile payment services, are being utilized by online marketplaces to facilitate the buying, selling, or financing of goods and services associated with human or drug trafficking destined for, originating from, or within the United States;

(3) how virtual currencies are being used to facilitate the buying, selling, or financing of goods and services associated with human or drug trafficking, destined for, originating from, or within the United

States, when an online platform is not otherwise involved;

(4) how illicit funds that have been transmitted online and through virtual currencies are repatriated into the formal banking system of the United States through money laundering or other means;

(5) the participants (state and non-state actors) throughout the entire supply chain that participate in or benefit from the buying, selling, or financing of goods and services associated with human or drug trafficking (either through online marketplaces or virtual currencies) destined for, originating from, or within the United States;

(6) Federal and State agency efforts to impede the buying, selling, or financing of goods and services associated with human or drug trafficking destined for, originating from, or within the United States, including efforts to prevent the proceeds from human or drug trafficking from entering the United States banking system;

(7) how virtual currencies and their underlying technologies can be used to detect and deter these illicit activities; and

(8) to what extent the immutable and traceable nature of virtual currencies can contribute to the tracking and prosecution of illicit funding.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report summarizing the results of the study required under subsection (c), together with any recommendations for legislative or regulatory action that would improve the efforts of Federal agencies to impede the use of virtual currencies and online marketplaces in facilitating human and drug trafficking.

SEC. 310. STUDY AND STRATEGY ON CHINESE MONEY LAUNDERING.

(a) STUDY.—The Secretary shall carry out a study on—

(1) the extent and effect of illicit finance risk relating to the Government of the People's Republic of China and Chinese firms; and

(2) the ways in which the increasing amount of global trade and investment by the Government of the People's Republic of China and Chinese firms

expose the international financial system to increased risk relating to illicit finance.

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

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report containing—

(1) all findings and determinations made in carrying out the study required under subsection (a); and

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

SEC. 311. FINANCIAL TECHNOLOGY TASK FORCE.

(a) IN GENERAL.—The Secretary shall convene a task force, comprised of financial regulators, technology experts, national security experts, law enforcement, and any other group the Secretary determines is appropriate, to analyze the impact of financial technology on financial crimes compliance, including countering proliferation finance, human trafficking, and sanctions evasion.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to

the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate and the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives a report containing any findings of the task force convened under subsection (a).

SEC. 312. STUDY ON THE EFFORTS OF AUTHORITARIAN REGIMES TO EXPLOIT THE FINANCIAL SYSTEM OF THE UNITED STATES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Attorney General, in consultation with the heads of other relevant national security, intelligence, and law enforcement agencies, shall conduct a study and submit to Congress a report that considers how authoritarian regimes in foreign countries and their proxies use the financial system of the United States to—

(1) conduct political influence operations;

(2) sustain kleptocratic methods of maintaining power;

(3) export corruption;

(4) fund nongovernmental organizations, media organizations, or academic initiatives in the United States to advance the interests of those persons; and

(5) otherwise undermine democratic governance in the United States and the partners and allies of the United States.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains—

(1) the results of the study required under subsection (a); and

(2) any recommendations for legislative or regulatory action that would address exploitation of the financial system of the United States by foreign authoritarian regimes.

SEC. 313. ADDITIONAL STUDIES.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to Congress a report—

(1) evaluating the effect of anti-money-laundering and counter-terrorism-financing requirements on individuals and entities, including charities, embassy accounts, money-service businesses, and correspondent banks, that have been subject to categorical de-risking by financial institutions operating in

the United States, or otherwise have difficulty accessing or maintaining—

(A) relationships in the United States financial system; or

(B) certain financial services in the United States, including opening and keeping open an account;

(2) evaluating consequences of financial institutions de-risking entire categories of relationships with the persons identified in paragraph (1); and

(3) identifying options for financial institutions handling transactions or accounts for high-risk categories of clients, and options for minimizing the negative effects of anti-money-laundering and counter-terrorism-financing requirements on the persons described in paragraph (1) without compromising the effectiveness of Federal anti-money-laundering and counter-terrorism requirements.

TITLE IV—BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

SEC. 401. BENEFICIAL OWNERSHIP.

(a) IN GENERAL.—Chapter 53 of title 31, United States Code, as amended by section 207 of this Act, is amended by adding at the end the following:

"§ 5334. Transparent incorporation practices

''(a) DEFINITIONS.—In this section:

''(1) ACCEPTABLE IDENTIFICATION DOCUMENT.—A natural person has an acceptable identification document if that person has a nonexpired passport issued by the United States, a nonexpired identification document issued by a State, local government, or Federally recognized Indian Tribe to an individual acting for the purpose of identification of that individual, or a nonexpired driver's license issued by a State, or, if the natural person does not have any such document, a nonexpired passport issued by a foreign government.

''(2) BENEFICIAL OWNER.—The term 'beneficial owner'—

''(A) means, with respect to an entity, a natural person who directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

''(i) exercises substantial control over such entity; or

''(ii) owns 25 percent or more of the equity interests of such entity or receives substantial economic benefits from the assets of such entity; and

''(B) does not include—

''(i) a minor child, as defined in the State in which the entity is formed;

''(ii) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

''(iii) a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of the person;

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

''(v) a creditor of a corporation or limited liability company, unless the creditor meets the requirements of subparagraph (A).

''(3) DIRECTOR.—The term 'Director' means the Director of FinCEN.

''(4) FINCEN.—The term 'FinCEN' means the Financial Crimes Enforcement Network of the Department of the Treasury.

''(5) FINCEN IDENTIFIER.—The term 'FinCEN identifier' means the unique identifying

number assigned by FinCEN to a person under this section.

''(6) REPORTING COMPANY.—The term 'reporting company'—

''(A) means a corporation, limited liability company, or other similar entity that is—

''(i) created by the filing of a document with a secretary of state or a similar office under the law of a State or Indian tribe; or

''(ii) formed under the law of a foreign country and registered to do business in a State by the filing of a document with a secretary of state or a similar office under the law of the State; and

''(B) does not include—

''(i) an issuer—

''(I) of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781); or

''(II) that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d));

''(ii) a business concern constituted or sponsored by a State, a political subdivision of a State, under an interstate compact between two or more States, by a department or agency of the United States, or under the laws of the United States;

''(iii) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

''(iv) a credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

''(v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841));

''(vi) a broker or dealer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o);

''(vii) an exchange or clearing agency (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 6 or 17A

of the Securities Exchange Act of 1934 (15 U.S.C. 78f and 78q–1);

''(viii) an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) or an investment adviser (as defined in section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(11))), including an investment adviser described in section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(l)), if the company or adviser is registered with the Securities and Exchange Commission, or has filed an application for registration which has not been denied, under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

''(ix) an insurance company (as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2));

''(x) an insurance producer (as defined in section 334 of the Gramm-Leach-Bliley Act (15 U.S.C. 6764));

''(xi) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), or a futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is registered with the Commodity Futures Trading Commission;

''(xii) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act (15 U.S.C. 7212);

''(xiii) a public utility that provides telecommunications services, electrical power, natural gas, or water and sewer services, within the United States;

''(xiv) a church, charity, nonprofit entity, or other organization that is described in section 501(c), 527, 4947(a)(1), or 4947(a)(2) of the Internal Revenue Code of 1986, that has not been denied tax-exempt status, and that has not failed to file the most recently due annual information return with the Internal Revenue Service pursuant to section 6033(a) of the Internal

Revenue Code of 1986, if required to file such a return, for 3 consecutive years, provided however, that an entity described in this clause shall not be considered a corporation or limited liability company until the period of time 180 days immediately following the date of its denial of tax-exempt status or failure to file its annual information return pursuant to section 6033(a) of the Internal Revenue Code of 1986 for 3 consecutive years;

''(xv) any business concern that—

''(I) employs more than 20 employees on a full-time basis in the United States;

''(II) files income tax returns in the United States demonstrating more than $5,000,000 in gross receipts or sales; and

''(III) has an operating presence at a physical office within the United States;

''(xvi) any corporation or limited liability company formed and owned by an entity described in clause (i), (ii), (iii), (iv),

(v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), or (xiv);

''(xvii) any pooled investment vehicle that is operated or advised by an entity described in clause (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x); or

''(xviii) any business concern or class of business concerns that the Secretary of the Treasury, with the written concurrence of the Attorney General and the Secretary of Homeland Security, has determined should be exempt from the requirements of subsection (a) because requiring beneficial ownership information from the business concern or class of business concerns would not serve the public interest and would not assist law enforcement efforts to detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct.

''(7) STATE.—The term 'State' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the

Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

''(8) SUBSTANTIAL ECONOMIC BENEFITS.—

''(A) IN GENERAL.—For the purposes of this section, a person receives 'substantial economic benefits' from an entity if the person has access to 25 percent or more of the funds and assets of the entity.

''(B) RULEMAKING.—The Secretary of the Treasury shall seek to provide clarity to entities with respect to the identification and disclosure of an individual who receives substantial economic benefits from the funds and assets of an entity.

''(9) UNIQUE IDENTIFYING NUMBER.—The term 'unique identifying number' with respect to a natural person or a limited liability company with a sole member means the unique identifying number from a nonexpired passport issued by the United States, a nonexpired personal identification card, or a nonexpired driver's license issued by a State.

''(b) BENEFICIAL OWNERSHIP REPORTING.—

''(1) REPORTING.—

''(A) IN GENERAL.—In accordance with regulations prescribed by the Secretary of the

Treasury, each reporting company shall submit to FinCEN a report that contains the information described in paragraph (2).

"(B) REPORTING OF EXISTING ENTITIES.—In accordance with regulations prescribed by the Secretary of the Treasury, any reporting company that has been formed under the laws of a State or Indian Tribe prior to the date of enactment of this section, shall, in a timely manner, and not later than 2 years after the date of enactment of this section, submit to FinCEN a report that contains the information described in paragraph (2).

"(C) REPORTING AT TIME OF INCORPORATION.—In accordance with regulations prescribed by the Secretary of the Treasury, any reporting company that has been formed under the laws of a State or Indian Tribe after the date of enactment of this section, shall, at the time of incorporation, submit to FinCEN a report that contains the information described in paragraph (2).

"(D) UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERS.—In accordance with regulations prescribed by the Secretary of the

Treasury, a reporting company shall, in a timely manner, and not later than 90 days after the date on which there is a change with respect to any beneficial owner of the reporting company, deliver to FinCEN a report that includes the information described in paragraph (2).

''(E) UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERSHIP INFORMATION.—In accordance with regulations prescribed by the Secretary of the Treasury, a reporting company shall, in a timely manner, and not later than 1 year after the date on which there are any changes to the information described in paragraph (2), deliver to FinCEN a report that includes the information described in that paragraph.

''(F) OTHER REQUIREMENTS.—In promulgating the regulations prescribed in subparagraphs (A) through (E), the Secretary of the Treasury shall endeavor, to the extent practicable—

''(i) to collect information through existing Federal, State, and local processes and procedures;

"(ii) to minimize burdens on reporting companies associated with the collection of the information described in paragraph (2) in light of the costs placed on legitimate businesses;

"(iii) to collect such information, including any updates in beneficial ownership, to ensure the usefulness of beneficial ownership information for law enforcement and national security purposes;

"(iv) to establish partnerships with State, local, and Tribal governmental agencies; and

"(v) to permit any entity that is not a reporting company to demand and receive from FinCEN written confirmation that the entity is not subject to the requirements of this subsection.

"(2) REQUIRED INFORMATION.—

"(A) DEFINITION.—In this paragraph, the term 'applicant' means, with respect to a reporting company, any individual who files an application to form a corporation or limited liability company under the laws of a State or

Indian Tribe on behalf of the reporting company.

''(B) INFORMATION.—In accordance with regulations prescribed by the Secretary of the Treasury, a report delivered under paragraph (1) shall identify each beneficial owner of the applicable reporting company and each applicant with respect to that reporting company by—

''(i) full legal name;

''(ii) date of birth;

''(iii) current, as of the date on which the report is delivered, residential or business street address; and

''(iv) the unique identifying number with respect to the beneficial owner from a nonexpired passport issued by the United States, a nonexpired personal identification card, or a nonexpired driver's license issued by a State.

''(3) FINCEN ID NUMBERS.—

''(A) ISSUANCE OF FINCEN ID NUMBER.—

''(i) IN GENERAL.—FinCEN shall issue a FinCEN ID number to any individual who requests such a number and

provides FinCEN with the information described in paragraph (2).

''(ii) UPDATING OF INFORMATION.—An individual with a FinCEN ID number shall submit filings with FinCEN pursuant to paragraph (1) updating any information described in paragraph (2).

''(B) USE OF FINCEN ID NUMBER IN REPORTING REQUIREMENTS.—Any person required to report the information described in paragraph (2) with respect to an individual may instead report the FinCEN ID number of the individual.

''(C) TREATMENT OF INFORMATION SUBMITTED FOR FINCEN ID NUMBER.—For purposes of this section, any information submitted under subparagraph (A) shall be deemed to be beneficial ownership information.

''(4) EFFECTIVE DATE.—The requirements of this subsection shall take effect on the effective date of the regulations prescribed by the Secretary of the Treasury under this subsection, which effective date shall not be sooner than the date that is 1 year after the date of enactment of this section.

''(c) RETENTION AND DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION BY FINCEN.—

''(1) RETENTION OF INFORMATION.—Beneficial ownership information required under subsection (b)(2) relating to each corporation or limited liability company formed under the laws of the State shall be maintained by FinCEN until the end of the 5-year period beginning on the date that the corporation or limited liability company terminates.

''(2) DISCLOSURE.—Beneficial ownership information reported to FinCEN pursuant to this section shall be provided by FinCEN only upon receipt of—

''(A) a request, through appropriate protocols, by a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency;

''(B) a request made by a Federal agency on behalf of a law enforcement agency of another country under an international treaty, agreement, or convention, or an order under section 3512 of title 18 or section 1782 of title 28, issued in response to a request for assistance in an investigation by such foreign country, subject to the requirement that such other country agrees to prevent the public disclosure

of such beneficial ownership information or to use it for any purpose other than the specified investigation, or, if upon agreement by the Federal agency and the foreign country, in a criminal or civil case; or

''(C) a request made by a financial institution or any other entity or person subject to customer due diligence requirements, with the consent of the reporting company, to facilitate the compliance of the financial institution or other entity or person with customer due diligence requirements under applicable Federal law or State law.

''(3) APPROPRIATE PROTOCOLS.—The protocols described in paragraph (2)(A) shall—

''(A) protect the privacy of any beneficial ownership information provided by FinCEN to a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency;

''(B) ensure that a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency requesting beneficial ownership information has an existing investigatory basis for requesting such information and that

basis is not in violation of a local, or city ordinance;

''(C) ensure that access to beneficial ownership information is limited to authorized users at a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency who have undergone appropriate training, and that the identity of such authorized users is verified through appropriate mechanisms such as 2-factor authentication;

''(D) include an audit trail of requests for beneficial ownership information by a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency, including, as necessary, information concerning queries made by authorized users at a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency;

''(E) require that every local, Tribal, State, or Federal law enforcement, national security, or intelligence agency that receives beneficial ownership information from FinCEN conducts an annual audit to verify that the beneficial ownership information received from FinCEN

has been accessed and used appropriately, and consistent with this paragraph; and

''(F) require FinCEN to conduct an annual audit of every local, Tribal, State, or Federal law enforcement, national security, or intelligence agency that has received beneficial ownership information to ensure that such agency has requested beneficial ownership information and has used any beneficial ownership information received from FinCEN appropriately and consistent with this paragraph.

''(4) VIOLATION.—A request under paragraph (2)(A) that violates the protocols described in paragraph (3) shall subject the requesting agency to criminal penalties under subsection (g)(3).

''(5) SCOPE.—Information provided to a local, Tribal, State, or Federal law enforcement, national security, or intelligence agency under this paragraph may only be used for law enforcement, anti-money laundering, counter-terrorism-financing, national security, or intelligence purposes.

''(d) AGENCY COORDINATION.—

''(1) IN GENERAL.—The Secretary of the Treasury shall endeavor, to the extent practicable, to update information described in subsection (b)(2) by

working collaboratively with other relevant Federal agencies.

''(2) INFORMATION FROM RELEVANT FEDERAL AGENCIES.—Relevant Federal agencies, as determined by the Secretary of the Treasury, shall, to the extent practicable, and consistent with privacy protections, provide such required information to FinCEN for purposes of maintaining an accurate beneficial ownership database.

''(3) REGULATIONS.—The Secretary of the Treasury, in consultation with the heads of other relevant agencies, may promulgate regulations as necessary to carry out this subsection.

''(e) STATE NOTIFICATION OF FEDERAL OBLIGATIONS.—

''(1) IN GENERAL.—Each State that receives funding under section 5334(c) shall, not later than 2 years after the date of enactment of this section, take the following actions:

''(A) The Secretary of State or a similar office in each State responsible for the establishment of entities created by the filing of a public document with such office under the law of such State shall periodically, including at the time of any renewal of any license to do busi-

ness in such State and in connection with State corporate tax renewals, notify filers of their requirements as reporting companies under this section, including the requirement under subparagraph (b)(1)(B), and provide them with a copy of the reporting company form created by the Secretary under this section or an internet link to such form.

''(B) The Secretary of State or a similar office in each State responsible for the establishment of entities created by the filing of a public document with such office under the law of such State shall update its websites, forms relating to incorporation and physical premises to notify filers of their requirements as reporting companies under this section, including providing an internet link to the reporting company form created by the Secretary under this section.

''(2) DISCLOSURE.—A notification under subparagraph (A) or (B) of paragraph (1) shall explicitly state that the notification is on behalf of the Department of the Treasury for the purpose of supporting a nonpublic registry of business entities in the United States.

''(f) NO BEARER SHARE CORPORATIONS OR LIMITED LIABILITY COMPANIES.—A corporation or limited liability company formed under the laws of a State may not issue a certificate in bearer form evidencing either a whole or fractional interest in the corporation or limited liability company.

''(g) PENALTIES.—

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

''(A) knowingly providing, or attempting to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph, to FinCEN in accordance with subsection (b);

''(B) willfully failing to provide complete or updated beneficial ownership information to FinCEN in accordance with subsection (b);

''(C) knowingly disclosing the contents of any report filed with FinCEN pursuant to subsection (b), except to the extent necessary to fulfill an authorized request for beneficial ownership information; or

''(D) knowingly using, for an unauthorized purpose, the contents of any report filed with FinCEN pursuant to subsection (b).

''(2) CIVIL AND CRIMINAL PENALTIES.—

''(A) IN GENERAL.—Any person who violates subparagraph (A) or (B) of paragraph (1) shall be liable to the United States for a civil penalty of not more than $500 for each day that the violation continues or has not been remedied, and the person may be fined not more than $10,000, imprisoned for not more than four years, or both.

''(B) OTHER VIOLATIONS.—Any person who violates subparagraph (C) or (D) of paragraph (1) shall be liable to the United States for a civil penalty of not more than $500 for each violation, and the criminal penalties provided for in section 5322 will apply to the same extent as such criminal penalties would apply to a violation described in section 5322.

''(C) LIMITATIONS.—Any person who negligently violates paragraph (1) shall not be subject to civil or criminal penalties under this paragraph.

''(D) WAIVER OF DE MINIMIS VIOLATIONS.—

''(i) DEFINITIONS.—

"(I) IN GENERAL.—For purposes of this subsection, a de minimis violation includes any change to the information described in paragraph (2)(B) of subsection (b) that is due to—

"(aa) a change in an address provided under clause (iii) of such paragraph (2)(B); or

"(bb) the expiration of an identification document provided under clause (iv) of such paragraph (2)(B).

"(II) ASSISTANCE.—FinCEN shall provide assistance to, and may not impose any penalty upon, any person seeking to remedy a de minimis violation of paragraph (1) and come into compliance with this section.

"(ii) WAIVER.—The Secretary of the Treasury shall waive the penalty for violating paragraph (1) if the Secretary determines that the violation was de minimis and the reporting company took reasonable steps to update the information.

"(iii) REPEATED VIOLATIONS.—In determining whether a violation is de minimis, the Secretary of the Treasury may treat repeated violations as 1 violation.

"(3) TREASURY OFFICE OF INSPECTOR GENERAL INVESTIGATION IN THE EVENT OF A CYBERSECURITY BREACH.—

"(A) IN GENERAL.—In the event of a cybersecurity breach that results in substantial unauthorized access and disclosure of sensitive beneficial ownership information, the Inspector General of the Department of the Treasury shall conduct an investigation into FinCEN cybersecurity practices that, to the extent possible, determines any vulnerabilities within FinCEN privacy security protocols and provides recommendations for fixing such deficiencies.

"(B) REPORT.—The Inspector General of the Department of the Treasury shall submit to the Secretary of the Treasury a report on the investigation required under this paragraph.

"(C) ACTIONS OF THE SECRETARY.—Upon receiving a report submitted under subparagraph (B), the Secretary of the Treasury shall—

''(i) determine whether the Director had any responsibility for the cybersecurity breach or whether policies, practices, or procedures implemented at the direction of the Director led to the cybersecurity breach; and

''(ii) submit to Congress a written report outlining the findings of the Secretary, including a determination by the Secretary on whether to retain or dismiss the individual serving as the Director.

''(4) USER COMPLAINT PROCESS.—

''(A) IN GENERAL.—The Inspector General of the Department of the Treasury, in coordination with the Secretary of the Treasury, shall provide contact information to receive external comments or complaints regarding the beneficial ownership information collection process.

''(B) REPORT.—The Inspector General shall submit to Congress a periodic report summarizing external complaints and related investigations by the Inspector General related to the collection of beneficial ownership information.''.

(b) CONFORMING AMENDMENTS.—Title 31, United States Code, is amended—

(1) in section 5321(a)—

(A) in paragraph (1), by striking ''sections 5314 and 5315'' each place it appears and inserting ''sections 5314, 5315, and 5334''; and

(B) in paragraph (6), by inserting ''(except section 5334)'' after ''subchapter'' each place it appears;

(2) in section 5322, by striking ''section 5315 or 5324'' each place it appears and inserting ''section 5315, 5324, or 5334''; and

(3) in the table of contents of chapter 53 of title 31, United States Code, as amended by section 106 of this Act, by adding at the end the following:

''5334. Transparent incorporation practices.''.

(c) FUNDING AUTHORIZATION.—

(1) IN GENERAL.—To carry out section 5334 of title 31, United States Code, as added by subsection (a) of this section, during the 3-year period beginning on the date of enactment of this Act, funds shall be made available to FinCEN and the States to pay reasonable costs relating to compliance with the requirements of such section.

(2) FUNDING SOURCES.—Funds shall be provided to FinCEN and the States to carry out the

purposes described in paragraph (1) from one or more of the following sources:

(A) Upon application by FinCEN or a State, and without further appropriation, the Secretary shall make available to FinCEN or such State unobligated balances described in section 9703(g)(4)(B) of title 31, United States Code, in the Department of the Treasury Forfeiture Fund established under section 9703(a) of title 31, United States Code.

(B) Upon application by FinCEN or a State, after consultation with the Secretary, and without further appropriation, the Attorney General of the United States shall make available to FinCEN or such State excess unobligated balances (as defined in section 524(c)(8)(D) of title 28, United States Code) in the Department of Justice Assets Forfeiture Fund established under section 524(c) of title 28, United States Code.

(3) MAXIMUM AMOUNTS.—

(A) DEPARTMENT OF THE TREASURY.—The Secretary may not make available to FinCEN a total of more than $30,000,000 and

to the States a total of not more than $5,000,000 under paragraph (2)(A).

(B) DEPARTMENT OF JUSTICE.—The Attorney General of the United States may not make available to FinCEN a total of more than $10,000,000 and to the States a total of not more than $5,000,000 under paragraph (2)(B).

(d) FEDERAL CONTRACTORS.—Not later than the first day of the first full fiscal year beginning at least 1 year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation maintained under section 1303(a)(1) of title 41, United States Code, to require any contractor who is subject to the requirement to disclose beneficial ownership information under section 5334 of title 31, United States Code, as added by subsection (a) of this section, to provide the information required to be disclosed under such section to the Federal Government as part of any bid or proposal for a contract with a value threshold in excess of the simplified acquisition threshold under section 134 of title 41, United States Code.

(e) REVISED DUE DILIGENCE RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall revise the final rule titled ''Cus-

tomer Due Diligence Requirements for Financial Institutions'' (May 11, 2016; 81 Fed. Reg. 29397) to—

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

(2) account for financial institutions' access to comprehensive beneficial ownership information filed by corporations and limited liability companies, under threat of civil and criminal penalties, under this Act, and the amendments made by this Act; and

(3) reduce any burdens on financial institutions that are, in light of the enactment of this Act and the amendments made by this Act, unnecessary or duplicative.

SEC. 402. GEOGRAPHIC TARGETING ORDER.

The Secretary shall issue a geographic targeting order, similar to the order issued by the FinCEN on November 15, 2018, that—

(1) applies to commercial real estate to the same extent, with the exception of not having the same thresholds, as the order issued by FinCEN on November 15, 2018, applies to residential real estate; and

(2) establishes a specific threshold for commercial real estate.

SEC. 403. BENEFICIAL OWNERSHIP STUDIES.

(a) OTHER LEGAL ENTITIES STUDY.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to Congress a report—

(1) identifying each State that has procedures that enable persons to form or register under the laws of the State partnerships, trusts, or other legal entities, and the nature of those procedures;

(2) identifying each State that requires persons seeking to form or register partnerships, trusts, or other legal entities under the laws of the State to provide beneficial owners (as that term is defined in section 5334(a) of title 31, United States Code, as added by section 401 of this Act) or beneficiaries of such entities, and the nature of the required information;

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

(A) raises concerns about the involvement of such entities in terrorism, money laundering, tax evasion, securities fraud, or other misconduct; and

(B) has impeded investigations into entities suspected of such misconduct; and

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

(b) EFFECTIVENESS OF INCORPORATION PRACTICES STUDY.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report assessing the effectiveness of incorporation practices implemented under this Act, and the amendments made by this Act, in—

(1) providing law enforcement agencies with prompt access to reliable, useful, and complete beneficial ownership information; and

(2) strengthening the capability of law enforcement agencies to—

(A) combat incorporation abuses and civil and criminal misconduct; and

(B) detect, prevent, or punish terrorism, money laundering, tax evasion, or other misconduct.

(c) USING TECHNOLOGY TO AVOID DUPLICATIVE LAYERS OF REPORTING OBLIGATIONS AND INCREASE ACCURACY OF BENEFICIAL OWNERSHIP INFORMATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Attorney General of the United States shall conduct a study to evaluate—

(A) the feasibility of adopting FinCEN identifying numbers or other simplified reporting methods in order to facilitate a simplified beneficial ownership regime for reporting companies;

(B) whether a reporting regime whereby only company shareholders are reported within the ownership chain of a reporting company could effectively track beneficial ownership information and increase information to law enforcement;

(C) the costs associated with imposing any new verification requirements on FinCEN; and

(D) the resources necessary to implement any such changes.

(2) FINDINGS.—The Secretary shall present findings to the relevant committees of jurisdiction and provide recommendations for carrying out these findings.

TITLE V—STRENGTHENING THE ABILITY OF THE SECURITIES AND EXCHANGE COMMISSION TO PURSUE VIOLATIONS OF THE SECURITIES LAWS

SEC. 501. SHORT TITLE.

This title may be cited as the ''Securities Fraud Enforcement and Investor Compensation Act of 2019''.

SEC. 502. INVESTIGATIONS AND PROSECUTIONS OF VIOLATIONS OF THE SECURITIES LAWS.

(a) IN GENERAL.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) in paragraph (3)—

(A) in the paragraph heading—

(i) by inserting ''CIVIL'' before ''MONEY PENALTIES''; and

(ii) by striking ''IN CIVIL ACTIONS'' and inserting ''AND AUTHORITY TO SEEK DISGORGEMENT'';

(B) in subparagraph (A), by striking ''jurisdiction to impose'' and all that follows through the period at the end and inserting the following: ''jurisdiction to—

''(i) impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation; and

''(ii) require disgorgement under paragraph (7) by the person who received any unjust enrichment as a result of such violation.''; and

(C) in subparagraph (B)—

(i) in clause (i), in the first sentence, by striking ''the penalty'' and inserting ''a civil penalty imposed under subparagraph (A)(i)'';

(ii) in clause (ii), by striking ''amount of penalty'' and inserting ''amount of a civil penalty imposed under subparagraph (A)(i)''; and

(iii) in clause (iii), in the matter preceding item (aa), by striking ''amount of penalty for each such violation'' and inserting ''amount of a civil penalty imposed under subparagraph (A)(i) for each violation described in that subparagraph'';

(2) in paragraph (4), by inserting ''under paragraph (7)'' after ''funds disgorged''; and

(3) by adding at the end the following:

''(7) DISGORGEMENT.—

''(A) IN GENERAL.—In any action or proceeding brought by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may order, disgorgement of any unjust enrichment that a person obtained as a result of a violation of that provision.

''(B) CALCULATION.—Any disgorgement that is ordered with respect to a person under subparagraph (A) shall be offset by any amount of restitution that the person is ordered to pay under paragraph (8).

''(8) RESTITUTION.—In any proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court, or, with respect to a proceeding instituted by the Commission, the Commission, may order restitution to an investor in the amount of the loss that the investor sustained as a result of a violation of that provision by a person that is—

''(A) registered as, or required to be registered as, a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or transfer agent; or

''(B) associated with, or, as of the date on which the violation occurs, seeking to become associated with, an entity described in subparagraph (A).

''(9) LIMITATIONS PERIODS.—

''(A) DISGORGEMENT.—The Commission may bring a claim for disgorgement under paragraph (7) not later than 5 years after the date on which the person against which the claim is brought receives any unjust enrichment as a result of the violation that gives rise to the action or proceeding in which the Commission seeks the claim.

''(B) EQUITABLE REMEDIES.—The Commission may seek a claim for any equitable remedy, including for restitution under paragraph (8), an injunction, or a bar, suspension, or cease and desist order, not later than 12 years after the latest date on which a violation that gives rise to the claim occurs.

''(C) CALCULATION.—For the purposes of calculating any limitations period under this paragraph with respect to an action or claim, any time in which the person against which the action or claim, as applicable, is brought is outside of the United States shall not count towards the accrual of that period.

''(10) RULE OF CONSTRUCTION.—Nothing in paragraph (7) or (8) may be construed as altering any right

that any private party may have to maintain a suit for a violation of this Act.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any action or proceeding that is commenced on or after the date of enactment of this Act.

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