

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1164  
OFFERED BY MR. LYNCH OF MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “OFAC Outreach and  
3 Engagement Capabilities Enhancement Act”.

**4 SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Office of Foreign Assets Control is the  
7 United States Government agency responsible for  
8 administering and enforcing economic sanctions pro-  
9 grams, primarily against countries and groups of in-  
10 dividuals, such as terrorists and narcotics traf-  
11 fickers.

12 (2) All United States persons must comply with  
13 OFAC regulations, including all United States citi-  
14 zens and permanent resident aliens regardless of  
15 where they are located, all persons and entities with-  
16 in the United States, all United States incorporated  
17 entities and their foreign branches. In the cases of  
18 certain programs, foreign subsidiaries owned or con-

1 trolled by United States companies also must com-  
2 ply. Certain programs also require foreign persons in  
3 possession of United States-origin goods to comply.

4 (3) While the sanctions announcements are  
5 themselves notice of the requirements placed on all  
6 United States persons, OFAC conducts additional  
7 outreach through its compliance office, serving as  
8 OFAC's primary liaison to the private sector and op-  
9 erating OFAC's public "hotline" for sanctions-re-  
10 lated questions and the conduct of civil investiga-  
11 tions for potential sanctions violations.

12 (4) While many industries, such as large multi-  
13 national financial institutions and industrial firms,  
14 have sophisticated sanctions departments to manage  
15 compliance with the strict-liability mandates from  
16 OFAC and to enact practices to defend their busi-  
17 ness' sales and supply chains from abuse by sanc-  
18 tions-designated bad actors, many smaller entities  
19 and industries, do not.

20 (5) According to the U.S. Department of the  
21 Treasury's 2021 Sanctions Review, "Sanctions are  
22 only as effective as their implementation, especially  
23 with regard to communication and engagement. In  
24 order to better calibrate the use of this tool, Treas-  
25 ury needs to communicate and coordinate more ef-

1       fectively with stakeholders affected by the use of fi-  
2       nancial sanctions. Treasury can build on existing  
3       outreach and engagement capabilities through en-  
4       hanced communication with industry, financial insti-  
5       tutions, allies, civil society, and the media, as well as  
6       new constituencies, particularly in the digital assets  
7       space.”.

8               (6) The Assistant Secretary for Terrorism and  
9       Financial Intelligence noted in a 2022 speech to a  
10      private-sector audience at the American Conference  
11      Institute, “We need to redouble efforts—to make  
12      sure that these networks do not pass under your  
13      radar and around our laws, and that when you ob-  
14      tain information about them, you promptly take ac-  
15      tion. This is not just a matter of compliance; it is  
16      a moral imperative. The choice is between permitting  
17      and preventing sanctions evasion—there is no space  
18      for neutral ground here.”.

19              (7) Examples of successful, robust Federal Gov-  
20      ernment public-private sector outreach programs  
21      that support the agency mission abound from the  
22      law enforcement, Intelligence Community, and regu-  
23      latory agencies, such as the Federal Bureau of In-  
24      vestigation’s InfraGard, the Public-Private Analytic  
25      Exchange Program from the Department of Home-

1 land Security and the Office of the Director of Na-  
2 tional Intelligence, and the Financial Crime Enforce-  
3 ment Network's FinCEN Exchange.

4 (8) The FinCEN Exchange, from OFAC's sis-  
5 ter agency within the U.S. Department of the Treas-  
6 ury, was mandated on January 1, 2021, when Con-  
7 gress enacted the Anti-Money Laundering Act of  
8 2020 (AML Act). Section 6103 of the AML Act es-  
9 tablishes the FinCEN Exchange to facilitate a vol-  
10 untary public-private information-sharing partner-  
11 ship between law enforcement agencies, national se-  
12 curity agencies, financial institutions, and FinCEN  
13 to effectively and efficiently combat money laun-  
14 dering, terrorism financing, organized crime, and  
15 other financial crimes, protect the financial system  
16 from illicit use, and promote national security.

17 (9) The objective of FinCEN Exchange is to  
18 develop, deliver, and sustain innovative public-pri-  
19 vate information sharing in order to enable the pri-  
20 vate sector to better identify risks and provide  
21 FinCEN and law enforcement with critical informa-  
22 tion to disrupt money laundering, terrorism financ-  
23 ing, and other financial crimes. The program goals  
24 of the exchange are to:

1 (A) Enhance communication, collaboration,  
2 and partnerships among FinCEN, law enforce-  
3 ment, and financial institutions.

4 (B) Support priority national security and  
5 counter-illicit finance investigations and poli-  
6 cies.

7 (C) Enhance the utility of suspicious activ-  
8 ity reports and share feedback with the private  
9 sector.

10 (D) Encourage, enable, and acknowledge a  
11 focus on high-value and high-impact activities.

12 (E) Conduct proactive outreach to allow  
13 industry to better prioritize efforts and utilize  
14 existing resources.

15 **SEC. 3. OFAC OUTREACH ASSESSMENT.**

16 (a) GOVERNMENT ACCOUNTABILITY OFFICE  
17 STUDY.—

18 (1) OUTREACH.—The Comptroller General of  
19 the United States shall, not later than 360 days  
20 after the date of the enactment of this section, carry  
21 out a study with respect to the quality and efficacy  
22 of outreach activities performed by OFAC in support  
23 of the mission of OFAC on or before the date of the  
24 enactment of this section.

25 (2) STUDY REQUIREMENTS.—

1 (A) IN GENERAL.—The Comptroller Gen-  
2 eral of the United States shall, in carrying out  
3 paragraph (1), examine each of the following  
4 with respect to outreach activities performed by  
5 OFAC:

6 (i) Goals and strategy.

7 (ii) Audiences.

8 (iii) Resources.

9 (iv) Number and type of engagements  
10 with private sector entities.

11 (v) Feedback capabilities.

12 (vi) Appropriate privacy and competi-  
13 tive fairness measures for information re-  
14 ceived from or shared with private sector  
15 entities.

16 (vii) Compliance with the Federal Ad-  
17 visory Committee Act, where required.

18 (viii) How information obtained from  
19 outreach activities is used by OFAC to  
20 support the mission of OFAC.

21 (ix) How, if at all, outreach activities  
22 help with enforcement functions.

23 (B) SURVEY OF SIMILAR PROGRAMS.—In  
24 carrying out the study required under this sub-

1 section, the Comptroller General of the United  
2 States shall—

3 (i) examine outreach programs admin-  
4 istered by agencies with similar national  
5 security and regulatory missions, including  
6 outreach programs administered by similar  
7 agencies, including the Financial Crimes  
8 Enforcement Network; and

9 (ii) identify best practices, similarities,  
10 and differences to inform the evaluation of  
11 existing OFAC outreach programs.

12 (b) BRIEFING.—OFAC shall, not later than 60 days  
13 after the date on which the Comptroller General of the  
14 United States submits a study pursuant to subsection (a),  
15 and after considering the results of such study, submit to  
16 the Committee on Financial Services of the House of Rep-  
17 resentatives and the Committee on Banking, Housing, and  
18 Urban Affairs on the Senate a briefing that describes how  
19 OFAC will improve its outreach activities going forward,  
20 including, at the time of such briefing, in relation to  
21 OFAC outreach activities, how OFAC—

22 (1) provides information to those who must  
23 comply with OFAC sanctions, especially those in  
24 communities and industries that are known to be  
25 targeted by bad actors designated by sanctions;

1           (2) uses outreach activities to support to the  
2           important mission of OFAC, with minimal redirec-  
3           tion of staff and resources;

4           (3) ensures that the selection of private-sector  
5           participants for outreach activities is free from fa-  
6           voritism;

7           (4) ensures that private-sector information ob-  
8           tained by OFAC during outreach activities is appro-  
9           priately safeguarded;

10          (5) ensures that information shared at outreach  
11          functions can be publicized in a manner that does  
12          not competitively disadvantage those not selected to  
13          participate in such outreach functions;

14          (6) applies Federal requirements with respect to  
15          all outreach activities, including Federal Advisory  
16          Committee Act requirements;

17          (7) ensures that private-sector participants not  
18          use outreach activities as an opportunity to pitch  
19          products or services or receive advance information  
20          about OFAC or Department of the Treasury pro-  
21          curement opportunities;

22          (8) maintains compliance with OFAC ethics re-  
23          quirements.

24          (c) FEASIBILITY OF VOLUNTARY EXCHANGE PRO-  
25          GRAM.—OFAC shall, after reviewing the report produced



1 by the Comptroller General of the United States pursuant  
2 to subsection (a) and submitting the briefing required  
3 under subsection (b), access the feasibility of the establish-  
4 ment of a program by OFAC designed to—

5 (1) facilitate a voluntary public-private informa-  
6 tion sharing partnership among law enforcement  
7 agencies, national security agencies, financial institu-  
8 tions, and OFAC to effectively and efficiently admin-  
9 ister and enforce economic sanctions against tar-  
10 geted foreign countries and regimes, terrorists, inter-  
11 national narcotics traffickers, those engaged in ac-  
12 tivities related to the proliferation of weapons of  
13 mass destruction, and other threats to the national  
14 security, foreign policy, or economy of the United  
15 States by promoting innovation and technical ad-  
16 vances in reporting;

17 (2) protect the financial system from illicit use,  
18 including evasions of existing economic sanctions  
19 programs; and

20 (3) facilitate two-way information exchange be-  
21 tween OFAC and persons who are required to com-  
22 ply with sanctions administered and enforced by  
23 OFAC, including financial institutions, business sec-  
24 tors frequently affected by sanctions programs, and

1 non-government organizations and humanitarian  
2 groups impacted by such sanctions programs.

3 (d) PILOT PROGRAM.—

4 (1) IN GENERAL.—The Secretary of the Treas-  
5 ury may, after considering the results of the study  
6 conducted by the Comptroller General of the United  
7 States pursuant to subsection (a), the briefing pro-  
8 vided by OFAC pursuant to subsection (b), and the  
9 feasibility assessment conducted by OFAC pursuant  
10 to subsection (c), require OFAC to establish a 3-  
11 year pilot of a program designed to—

12 (A) facilitate a voluntary public-private in-  
13 formation sharing partnership among law en-  
14 forcement agencies, national security agencies,  
15 financial institutions, and OFAC to effectively  
16 and efficiently administer and enforce economic  
17 sanctions against targeted foreign countries and  
18 regimes, terrorists, international narcotics traf-  
19 fickers, those engaged in activities related to  
20 the proliferation of weapons of mass destruc-  
21 tion, and other threats to the national security,  
22 foreign policy, or economy of the United States  
23 by promoting innovation and technical advances  
24 in reporting;

1 (B) protect the financial system from illicit  
2 use, including evasions of existing economic  
3 sanctions programs; and

4 (C) facilitate two-way information ex-  
5 change between OFAC and persons who are re-  
6 quired to comply with sanctions administered  
7 and enforced by OFAC, including financial in-  
8 stitutions, business sectors frequently affected  
9 by sanctions programs, and non-government or-  
10 ganizations and humanitarian groups impacted  
11 by such sanctions programs.

12 (2) INFORMATION SHARING.—

13 (A) IN GENERAL.—Any information shared  
14 by a private sector entity as a part of any pro-  
15 gram established under paragraph (1) shall be  
16 shared—

17 (i) in compliance with all other appli-  
18 cable Federal laws and regulations; and

19 (ii) in such a manner as to ensure the  
20 appropriate confidentiality of personal in-  
21 formation..

22 (B) USE OF INFORMATION.—Information  
23 received by OFAC from a private sector entity  
24 as a part of any program established under  
25 paragraph (1) may not be used for any purpose

1 other than identifying and reporting on activi-  
2 ties that may involve the compliance with  
3 United States sanctions requirements.

4 (C) RULE OF CONSTRUCTION.—Nothing in  
5 this subsection may be construed to create new  
6 information sharing authorities or requirements  
7 relating to sanctions laws.

8 (3) REPORT.—If a program is established  
9 under paragraph (1), OFAC shall, annual submit a  
10 report to the Committee on Financial Services of the  
11 House of Representatives and the Committee on  
12 Banking, Housing, and Urban Affairs of the Senate  
13 that describes the activities of such program.

14 (e) DEFINITIONS.—In this Act:

15 (1) OFAC.—The term “OFAC” means the Of-  
16 fice of Foreign Assets Control.

17 (2) PRIVATE SECTOR.—The term “private sec-  
18 tor entity” means a business, a nonprofit organiza-  
19 tion, a nongovernmental organization, a legal and or  
20 advisory firm that supports such a business or orga-  
21 nization, and a technology provider that supports  
22 such a business or organization.

