

Suspend the Rules and Pass the Bill, H.R. 2514, with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 2514

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

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2019

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

A BILL

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

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

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

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

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

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

TITLE I—STRENGTHENING TREASURY

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

TITLE J—IMPROVING AML/CFT OVERSIGHT

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

TITLE K—MODERNIZING THE AML SYSTEM

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

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

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

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

6 “(A) section 21 of the Federal Deposit In-
7 surance Act;

8 “(B) chapter 2 of title I of Public Law 91–
9 508; and

10 “(C) this subchapter.”.

11 **TITLE I—STRENGTHENING**
12 **TREASURY**

13 **SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF**
14 **THE BANK SECRECY ACT.**

15 Section 5311 of title 31, United States Code, is
16 amended—

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

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

22 **SEC. 102. SPECIAL HIRING AUTHORITY.**

23 (a) **IN GENERAL.**—Section 310 of title 31, United
24 States Code, is amended—

25 (1) by redesignating subsection (d) as sub-
26 section (g); and

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

3 “(d) SPECIAL HIRING AUTHORITY.—

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

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

15 (b) REPORT.—Not later than 360 days after the date
16 of enactment of this Act, and every year thereafter for
17 7 years, the Director of the Financial Crimes Enforcement
18 Network shall submit a report to the Committee on Finan-
19 cial Services of the House of Representatives and the
20 Committee on Banking, Housing, and Urban Affairs of
21 the Senate that includes—

22 (1) the number of new employees hired since
23 the preceding report through the authorities de-
24 scribed under section 310(d) of title 31, United

1 States Code, along with position titles and associ-
2 ated pay grades for such hires; and

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

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

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

15 (1) within each Federal functional regulator, by
16 the head of the Federal functional regulator;

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

19 (3) within the Internal Revenue Service Small
20 Business and Self-Employed Tax Center, by the Sec-
21 retary of the Treasury.

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

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

4 (2) be consulted on information-sharing pro-
5 grams, including those that provide access to person-
6 ally identifiable information;

7 (3) ensure coordination and clarity between
8 anti-money laundering, civil liberties, and privacy
9 regulations;

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

15 (5) develop metrics of program success.

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

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

20 (2) FEDERAL FUNCTIONAL REGULATOR.—The
21 term “Federal functional regulator” means the
22 Board of Governors of the Federal Reserve System,
23 the Comptroller of the Currency, the Federal De-
24 posit Insurance Corporation, the National Credit
25 Union Administration, the Securities and Exchange

1 Commission, and the Commodity Futures Trading
2 Commission.

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

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

9 (b) CHAIR.—The Director of the Financial Crimes
10 Enforcement Network shall serve as the Chair of the
11 Council.

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

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

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

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

21 (3) shall include participation by public and pri-
22 vate entities, law enforcement agencies, and a rep-
23 resentative of State bank supervisors (as defined
24 under section 3 of the Federal Deposit Insurance
25 Act (12 U.S.C. 1813)).

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

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

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

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

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

25 (c) INTERNATIONAL MONETARY FUND.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“316. Treasury Attachés Program.”.

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

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

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

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

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

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

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

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

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

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

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

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

12 “(e) FINCEN DOMESTIC LIAISONS.—

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

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

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

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

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

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

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

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

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

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

18 “(f) FINCEN EXCHANGE.—

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

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

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

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

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

8 “(C) promote national security.

9 “(3) REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) DEFINITIONS.—In this section:

1 (1) DE-RISKING.—The term “de-risking”
2 means the wholesale closing of accounts or limiting
3 of financial services for a category of customer due
4 to unsubstantiated risk as it relates to compliance
5 with the Bank Secrecy Act.

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

10 (3) STATE BANK SUPERVISOR.—The term
11 “State bank supervisor” has the meaning given that
12 term under section 3 of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1813).

14 **SEC. 112. AML EXAMINATION AUTHORITY DELEGATION**
15 **STUDY.**

16 (a) STUDY.—The Secretary of the Treasury shall
17 carry out a study, in consultation with State bank super-
18 visors (as defined under section 3 of the Federal Deposit
19 Insurance Act (12 U.S.C. 1813)), and other relevant
20 stakeholders, on the Secretary’s delegation of examination
21 authority under the Bank Secrecy Act, including—

22 (1) an evaluation of the efficacy of the delega-
23 tion, especially with respect to the mission of the
24 Bank Secrecy Act;

1 (2) whether the delegated agencies have appro-
2 priate resources to perform their delegated respon-
3 sibilities; and

4 (3) whether the examiners in delegated agencies
5 have sufficient training and support to perform their
6 responsibilities.

7 (b) REPORT.—Not later than one year after the date
8 of enactment of this Act, the Secretary of the Treasury
9 shall submit to the Committee on Financial Services of
10 the House of Representatives and the Committee on
11 Banking, Housing, and Urban Affairs of the Senate a re-
12 port containing—

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

16 (2) recommendations to improve the efficacy of
17 delegation authority, including the potential for de-
18 legation of any or all such authority where it may
19 be appropriate.

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

1 **SEC. 113. STUDY AND STRATEGY ON CHINESE MONEY**
2 **LAUNDERING.**

3 (a) **STUDY.**—The Secretary of the Treasury shall
4 carry out a study on the extent and effect of Chinese
5 money laundering activities in the United States, including
6 territories and possessions of the United States, and
7 worldwide.

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

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

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

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

1 **TITLE J—IMPROVING AML/CFT**
2 **OVERSIGHT**

3 **SEC. 201. PILOT PROGRAM ON SHARING OF SUSPICIOUS**
4 **ACTIVITY REPORTS WITHIN A FINANCIAL**
5 **GROUP.**

6 (a) IN GENERAL.—

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

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

13 “(A) IN GENERAL.—The Secretary of the
14 Treasury shall issue rules establishing the pilot
15 program described under subparagraph (B),
16 subject to such controls and restrictions as the
17 Director of the Financial Crimes Enforcement
18 Network determines appropriate, including con-
19 trols and restrictions regarding participation by
20 financial institutions and jurisdictions in the
21 pilot program. In prescribing such rules, the
22 Secretary shall ensure that the sharing of infor-
23 mation described under such subparagraph (B)
24 is subject to appropriate standards and require-

1 ments regarding data security and the confiden-
2 tiality of personally identifiable information.

3 “(B) PILOT PROGRAM DESCRIBED.—The
4 pilot program required under this paragraph
5 shall—

6 “(i) permit a financial institution with
7 a reporting obligation under this sub-
8 section to share reports (and information
9 on such reports) under this subsection with
10 the institution’s foreign branches, subsidi-
11 aries, and affiliates for the purpose of com-
12 bating illicit finance risks, notwithstanding
13 any other provision of law except subpara-
14 graphs (A) and (C);

15 “(ii) terminate on the date that is five
16 years after the date of enactment of this
17 paragraph, except that the Secretary may
18 extend the pilot program for up to two
19 years upon submitting a report to the
20 Committee on Financial Services of the
21 House of Representatives and the Com-
22 mittee on Banking, Housing, and Urban
23 Affairs of the Senate that includes—

24 “(I) a certification that the ex-
25 tension is in the national interest of

1 the United States, with a detailed ex-
2 planation of the reasons therefor;

3 “(II) an evaluation of the useful-
4 ness of the pilot program, including a
5 detailed analysis of any illicit activity
6 identified or prevented as a result of
7 the program; and

8 “(III) a detailed legislative pro-
9 posal providing for a long-term exten-
10 sion of the pilot program activities, in-
11 cluding expected budgetary resources
12 for the activities, if the Secretary de-
13 termines that a long-term extension is
14 appropriate.

15 “(C) PROHIBITION INVOLVING CERTAIN
16 JURISDICTIONS.—In issuing the regulations re-
17 quired under subparagraph (A), the Secretary
18 may not permit a financial institution to share
19 information on reports under this subsection
20 with a foreign branch, subsidiary, or affiliate lo-
21 cated in—

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

23 “(ii) the Russian Federation; or

24 “(iii) a jurisdiction that—

1 “(I) is subject to counter-
2 measures imposed by the Federal
3 Government;

4 “(II) is a state sponsor of ter-
5 rorism; or

6 “(III) the Secretary has deter-
7 mined cannot reasonably protect the
8 privacy and confidentiality of such in-
9 formation or would otherwise use such
10 information in a manner that is not
11 consistent with the national interest of
12 the United States.

13 “(D) IMPLEMENTATION UPDATES.—Not
14 later than 360 days after the date rules are
15 issued under subparagraph (A), and annually
16 thereafter for three years, the Secretary, or the
17 Secretary’s designee, shall brief the Committee
18 on Financial Services of the House of Rep-
19 resentatives and the Committee on Banking,
20 Housing, and Urban Affairs of the Senate on—

21 “(i) the degree of any information
22 sharing permitted under the pilot program,
23 and a description of criteria used by the
24 Secretary to evaluate the appropriateness
25 of the information sharing;

1 “(ii) the effectiveness of the pilot pro-
2 gram in identifying or preventing the viola-
3 tion of a United States law or regulation,
4 and mechanisms that may improve such ef-
5 fectiveness; and

6 “(iii) any recommendations to amend
7 the design of the pilot program.

8 “(E) RULE OF CONSTRUCTION.—Nothing
9 in this paragraph shall be construed as limiting
10 the Secretary’s authority under provisions of
11 law other than this paragraph to establish other
12 permissible purposes or methods for a financial
13 institution sharing reports (and information on
14 such reports) under this subsection with the in-
15 stitution’s foreign headquarters or with other
16 branches of the same institution.

17 “(F) NOTICE OF USE OF OTHER AUTHOR-
18 ITY.—If the Secretary, pursuant to any author-
19 ity other than that provided under this para-
20 graph, permits a financial institution to share
21 information on reports under this subsection
22 with a foreign branch, subsidiary, or affiliate lo-
23 cated in a foreign jurisdiction, the Secretary
24 shall notify the Committee on Financial Serv-
25 ices of the House of Representatives and the

1 Committee on Banking, Housing, and Urban
2 Affairs of such permission and the applicable
3 foreign jurisdiction.

4 “(6) TREATMENT OF FOREIGN JURISDICTION-
5 ORIGINATED REPORTS.—A report received by a fi-
6 nancial institution from a foreign affiliate with re-
7 spect to a suspicious transaction relevant to a pos-
8 sible violation of law or regulation shall be subject
9 to the same confidentiality requirements provided
10 under this subsection for a report of a suspicious
11 transaction described under paragraph (1).”.

12 (2) NOTIFICATION PROHIBITIONS.—Section
13 5318(g)(2)(A) of title 31, United States Code, is
14 amended—

15 (A) in clause (i), by inserting after “trans-
16 action has been reported” the following: “or
17 otherwise reveal any information that would re-
18 veal that the transaction has been reported”;
19 and

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

24 (b) RULEMAKING.—Not later than the end of the
25 360-day period beginning on the date of enactment of this

1 Act, the Secretary of the Treasury shall issue regulations
2 to carry out the amendments made by this section.

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

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

7 “(o) SHARING OF COMPLIANCE RESOURCES.—

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

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

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

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

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

24 (1) best practices within the United States Gov-
25 ernment for providing feedback (“feedback loop”) to

1 relevant parties (including regulated private entities)
2 on the usage and usefulness of personally identifi-
3 able information (“PII”), sensitive-but-unclassified
4 (“SBU”) data, or similar information provided by
5 such parties to Government users of such informa-
6 tion and data (including law enforcement or regu-
7 lators); and

8 (2) any practices or standards inside or outside
9 the United States for providing feedback through
10 sensitive information and public-private partnership
11 information sharing efforts, specifically related to ef-
12 forts to combat money laundering and other forms
13 of illicit finance.

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

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

22 (2) with respect to each of paragraphs (1) and
23 (2) of subsection (a), any best practices or signifi-
24 cant concerns identified by the Comptroller General,
25 and their applicability to public-private partnerships

1 and feedback loops with respect to U.S. efforts to
2 combat money laundering and other forms of illicit
3 finance; and

4 (3) recommendations to reduce or eliminate any
5 unnecessary Government collection of the informa-
6 tion described under subsection (a)(1).

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

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

11 (b) REPORT.—Not later than the end of the 30-day
12 period beginning on the date the study under subsection
13 (a) is completed, the Director shall issue a report to the
14 Committee on Financial Services of the House of Rep-
15 resentatives and the Committee on Banking, Housing, and
16 Urban Affairs of the Senate containing all findings and
17 determinations made in carrying out the study required
18 under this section.

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

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

1 **SEC. 205. SHARING OF THREAT PATTERN AND TREND IN-**
2 **FORMATION.**

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

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

8 “(A) SAR ACTIVITY REVIEW.—The Direc-
9 tor of the Financial Crimes Enforcement Net-
10 work shall restart publication of the ‘SAR Ac-
11 tivity Review – Trends, Tips & Issues’, on not
12 less than a semi-annual basis, to provide mean-
13 ingful information about the preparation, use,
14 and value of reports filed under this subsection
15 by financial institutions, as well as other re-
16 ports filed by financial institutions under the
17 Bank Secrecy Act.

18 “(B) INCLUSION OF TYPOLOGIES.—In each
19 publication described under subparagraph (A),
20 the Director shall provide financial institutions
21 with typologies, including data that can be
22 adapted in algorithms (including for artificial
23 intelligence and machine learning programs)
24 where appropriate, on emerging money laun-
25 dering and counter terror financing threat pat-
26 terns and trends.

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

5 **SEC. 206. MODERNIZATION AND UPGRADING WHISTLE-**
6 **BLOWER PROTECTIONS.**

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

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

15 (b) WHISTLEBLOWER INCENTIVES.—

16 Chapter 53 of title 31, United States Code, is
17 amended—

18 (1) by inserting after section 5323 the fol-
19 lowing:

20 **“§ 5323A. Whistleblower incentives**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
23 ACTION.—The term ‘covered judicial or administra-
24 tive action’ means any judicial or administrative ac-
25 tion brought by FinCEN under the Bank Secrecy

1 Act that results in monetary sanctions exceeding
2 \$1,000,000.

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

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

8 “(A) any monies, including penalties,
9 disgorgement, and interest, ordered to be paid;
10 and

11 “(B) any monies deposited into a
12 disgorgement fund as a result of such action or
13 any settlement of such action.

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

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

18 “(B) is not known to FinCEN from any
19 other source, unless the whistleblower is the
20 original source of the information; and

21 “(C) is not exclusively derived from an al-
22 legation made in a judicial or administrative
23 hearing, in a governmental report, hearing,
24 audit, or investigation, or from the news media,

1 unless the whistleblower is a source of the infor-
2 mation.

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

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

11 “(7) WHISTLEBLOWER.—The term ‘whistle-
12 blower’ means any individual who provides, or 2 or
13 more individuals acting jointly who provide, informa-
14 tion relating to a violation of laws enforced by
15 FinCEN, in a manner established, by rule or regula-
16 tion, by FinCEN.

17 “(b) AWARDS.—

18 “(1) IN GENERAL.—In any covered judicial or
19 administrative action, or related action, the Sec-
20 retary, under such rules as the Secretary may issue
21 and subject to subsection (c), shall pay an award or
22 awards to 1 or more whistleblowers who voluntarily
23 provided original information to FinCEN that led to
24 the successful enforcement of the covered judicial or
25 administrative action, or related action, in an aggre-

1 gate amount equal to not more than 30 percent, in
2 total, of what has been collected of the monetary
3 sanctions imposed in the action.

4 “(2) SOURCE OF AWARDS.—For the purposes of
5 paying any award under paragraph (1), the Sec-
6 retary may, subject to amounts made available in
7 advance by appropriation Acts, use monetary sanc-
8 tion amounts recovered based on the original infor-
9 mation with respect to which the award is being
10 paid.

11 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
12 NIAL OF AWARD.—

13 “(1) DETERMINATION OF AMOUNT OF
14 AWARD.—

15 “(A) DISCRETION.—The determination of
16 the amount of an award made under subsection
17 (b) shall be in the discretion of the Secretary.

18 “(B) CRITERIA.—In responding to a dis-
19 closure and determining the amount of an
20 award made, FinCEN staff shall meet with the
21 whistleblower to discuss evidence disclosed and
22 rebuttals to the disclosure, and shall take into
23 consideration—

24 “(i) the significance of the informa-
25 tion provided by the whistleblower to the

1 success of the covered judicial or adminis-
2 trative action;

3 “(ii) the degree of assistance provided
4 by the whistleblower and any legal rep-
5 resentative of the whistleblower in a cov-
6 ered judicial or administrative action;

7 “(iii) the mission of FinCEN in deter-
8 ring violations of the law by making
9 awards to whistleblowers who provide in-
10 formation that lead to the successful en-
11 forcement of such laws; and

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

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

16 “(A) to any whistleblower who is, or was at
17 the time the whistleblower acquired the original
18 information submitted to FinCEN, a member,
19 officer, or employee of—

20 “(i) an appropriate regulatory agency;

21 “(ii) the Department of Justice;

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

23 “(iv) a law enforcement organization;

24 “(B) to any whistleblower who is convicted
25 of a criminal violation, or who the Secretary

1 has a reasonable basis to believe committed a
2 criminal violation, related to the judicial or ad-
3 ministrative action for which the whistleblower
4 otherwise could receive an award under this sec-
5 tion;

6 “(C) to any whistleblower who gains the
7 information through the performance of an
8 audit of financial statements required under the
9 Bank Secrecy Act and for whom such submis-
10 sion would be contrary to its requirements; or

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

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

19 “(d) REPRESENTATION.—

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

23 “(2) REQUIRED REPRESENTATION.—

24 “(A) IN GENERAL.—Any whistleblower
25 who anonymously makes a claim for an award

1 under subsection (b) shall be represented by
2 counsel if the whistleblower anonymously sub-
3 mits the information upon which the claim is
4 based.

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

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

20 “(f) EMPLOYEE PROTECTIONS.—The Secretary of
21 the Treasury shall issue regulations protecting a whistle-
22 blower from retaliation, which shall be as close as prac-
23 ticable to the employee protections provided for under sec-
24 tion 1057 of the Consumer Financial Protection Act of
25 2010.”; and

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

“5323A. Whistleblower incentives.”.

4 **SEC. 207. CERTAIN VIOLATORS BARRED FROM SERVING ON**
5 **BOARDS OF UNITED STATES FINANCIAL IN-**
6 **STITUTIONS.**

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

9 “(f) CERTAIN VIOLATORS BARRED FROM SERVING
10 ON BOARDS OF UNITED STATES FINANCIAL INSTITU-
11 TIONS.—

12 “(1) IN GENERAL.—An individual found to
13 have committed an egregious violation of a provision
14 of (or rule issued under) the Bank Secrecy Act shall
15 be barred from serving on the board of directors of
16 a United States financial institution for a 10-year
17 period beginning on the date of such finding.

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

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

23 “(B) a civil violation where the individual
24 willfully committed such violation and the viola-

1 tion facilitated money laundering or the financ-
2 ing of terrorism.”.

3 **SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
4 **CRECY ACT VIOLATORS.**

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

8 “(g) ADDITIONAL DAMAGES FOR REPEAT VIOLA-
9 TORS.—In addition to any other fines permitted by this
10 section and section 5322, with respect to a person who
11 has previously been convicted of a criminal provision of
12 (or rule issued under) the Bank Secrecy Act or who has
13 admitted, as part of a deferred- or non-prosecution agree-
14 ment, to having previously committed a violation of a
15 criminal provision of (or rule issued under) the Bank Se-
16 crecy Act, the Secretary may impose an additional civil
17 penalty against such person for each additional such viola-
18 tion in an amount equal to up three times the profit
19 gained or loss avoided by such person as a result of the
20 violation.”.

21 (b) PROSPECTIVE APPLICATION OF AMENDMENT.—
22 For purposes of determining whether a person has com-
23 mitted a previous violation under section 5321(g) of title
24 31, United States Code, such determination shall only in-

1 clude violations occurring after the date of enactment of
2 this Act.

3 **SEC. 209. JUSTICE ANNUAL REPORT ON DEFERRED AND**
4 **NON-PROSECUTION AGREEMENTS.**

5 (a) ANNUAL REPORT.—The Attorney General shall
6 issue an annual report, every year for the five years begin-
7 ning on the date of enactment of this Act, to the Commit-
8 tees on Financial Services and the Judiciary of the House
9 of Representatives and the Committees on Banking, Hous-
10 ing, and Urban Affairs and the Judiciary of the Senate
11 containing—

12 (1) a list of deferred prosecution agreements
13 and non-prosecution agreements that the Attorney
14 General has entered into during the previous year
15 with any person with respect to a violation or sus-
16 pected violation of the Bank Secrecy Act;

17 (2) the justification for entering into each such
18 agreement;

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

22 (4) the extent of coordination the Attorney
23 General conducted with the Financial Crimes En-
24 forcement Network prior to entering into each such
25 agreement.

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

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

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

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

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

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

18 “(2) if such person is an individual who was a
19 partner, director, officer, or employee of a financial
20 institution at the time the violation occurred, repay
21 to such financial institution any bonus paid to such
22 individual during the Federal fiscal year in which
23 the violation occurred or the Federal fiscal year
24 after which the violation occurred.”.

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

8 **SEC. 211. APPLICATION OF BANK SECRECY ACT TO DEAL-**
9 **ERS IN ANTIQUITIES.**

10 (a) **IN GENERAL.**—Section 5312(a)(2) of title 31,
11 United States Code, is amended—

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

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

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

18 “(Z) a person trading or acting as an
19 intermediary in the trade of antiquities, includ-
20 ing an advisor, consultant or any other person
21 who engages as a business in the solicitation of
22 the sale of antiquities; or”.

23 (b) **STUDY ON THE FACILITATION OF MONEY LAUN-**
24 **DERING AND TERROR FINANCE THROUGH THE TRADE OF**
25 **WORKS OF ART OR ANTIQUITIES.**—

1 (1) STUDY.—The Secretary of the Treasury, in
2 coordination with Federal Bureau of Investigation,
3 the Attorney General, and Homeland Security Inves-
4 tigations, shall perform a study on the facilitation of
5 money laundering and terror finance through the
6 trade of works of art or antiquities, including an
7 analysis of—

8 (A) the extent to which the facilitation of
9 money laundering and terror finance through
10 the trade of works of art or antiquities may
11 enter or affect the financial system of the
12 United States, including any qualitative data or
13 statistics;

14 (B) whether thresholds and definitions
15 should apply in determining which entities to
16 regulate;

17 (C) an evaluation of which markets, by
18 size, entity type, domestic or international geo-
19 graphical locations, or otherwise, should be sub-
20 ject to regulations, but only to the extent such
21 markets are not already required to report on
22 the trade of works of art or antiquities to the
23 Federal Government;

24 (D) an evaluation of whether certain ex-
25 emptions should apply; and

1 (E) any other points of study or analysis
2 the Secretary determines necessary or appro-
3 priate.

4 (2) REPORT.—Not later than the end of the
5 180-day period beginning on the date of the enact-
6 ment of this Act, the Secretary of the Treasury shall
7 issue a report to the Committee on Financial Serv-
8 ices of the House of Representatives and the Com-
9 mittee on Banking, Housing, and Urban Affairs of
10 the Senate containing all findings and determina-
11 tions made in carrying out the study required under
12 paragraph (1).

13 (c) RULEMAKING.—Not later than the end of the
14 180-day period beginning on the date the Secretary issues
15 the report required under subsection (b)(2), the Secretary
16 shall issue regulations to carry out the amendments made
17 by subsection (a).

18 **SEC. 212. GEOGRAPHIC TARGETING ORDER.**

19 The Secretary of the Treasury shall issue a geo-
20 graphic targeting order, similar to the order issued by the
21 Financial Crimes Enforcement Network on November 15,
22 2018, that—

23 (1) applies to commercial real estate to the
24 same extent, with the exception of having the same
25 thresholds, as the order issued by FinCEN on No-

1 vember 15, 2018, applies to residential real estate;
2 and

3 (2) establishes a specific threshold for commer-
4 cial real estate.

5 **SEC. 213. STUDY AND REVISIONS TO CURRENCY TRANS-**
6 **ACTION REPORTS AND SUSPICIOUS ACTIVITY**
7 **REPORTS.**

8 (a) CURRENCY TRANSACTION REPORTS.—

9 (1) CTR INDEXED FOR INFLATION.—

10 (A) IN GENERAL.—Every 5 years after the
11 date of enactment of this Act, the Secretary of
12 the Treasury shall revise regulations issued
13 with respect to section 5313 of title 31, United
14 States Code, to update each \$10,000 threshold
15 amount in such regulation to reflect the change
16 in the Consumer Price Index for All Urban
17 Consumers published by the Department of
18 Labor, rounded to the nearest \$100. For pur-
19 poses of calculating the change described in the
20 previous sentence, the Secretary shall use
21 \$10,000 as the base amount and the date of en-
22 actment of this Act as the base date.

23 (B) EXCEPTION.—Notwithstanding sub-
24 paragraph (A), the Secretary may make appro-
25 priate adjustments to the threshold amounts

1 described under subparagraph (A) in high-risk
2 areas (e.g., High Intensity Financial Crime
3 Areas or HIFCAs), if the Secretary has demon-
4 strable evidence that shows a threshold raise
5 would increase serious crimes, such as traf-
6 ficking, or endanger national security.

7 (2) GAO CTR STUDY.—

8 (A) STUDY.—The Comptroller General of
9 the United States shall carry out a study of
10 currency transaction reports. Such study shall
11 include—

12 (i) a review (carried out in consulta-
13 tion with the Secretary of the Treasury,
14 the Financial Crimes Enforcement Net-
15 work, the United States Attorney General,
16 the State Attorneys General, and State,
17 Tribal, and local law enforcement) of the
18 effectiveness of the current currency trans-
19 action reporting regime;

20 (ii) an analysis of the importance of
21 currency transaction reports to law en-
22 forcement; and

23 (iii) an analysis of the effects of rais-
24 ing the currency transaction report thresh-
25 old.

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

6 (i) all findings and determinations
7 made in carrying out the study required
8 under subparagraph (A); and

9 (ii) recommendations for improving
10 the current currency transaction reporting
11 regime.

12 (b) MODIFIED SARs STUDY AND DESIGN.—

13 (1) STUDY.—The Director of the Financial
14 Crimes Enforcement Network shall carry out a
15 study, in consultation with industry stakeholders (in-
16 cluding money services businesses, community
17 banks, and credit unions), the Federal functional
18 regulators, State bank supervisors, and law enforce-
19 ment, of the design of a modified suspicious activity
20 report form for certain customers and activities.
21 Such study shall include—

22 (A) an examination of appropriate optimal
23 SARs thresholds to determine the level at which
24 a modified SARs form could be employed;

1 (B) an evaluation of which customers or
2 transactions would be appropriate for a modi-
3 fied SAR, including—

4 (i) seasoned business customers;

5 (ii) financial technology (Fintech)
6 firms;

7 (iii) structuring transactions; and

8 (iv) any other customer or transaction
9 that may be appropriate for a modified
10 SAR; and

11 (C) an analysis of the most effective meth-
12 ods to reduce the regulatory burden imposed on
13 financial institutions in complying with the
14 Bank Secrecy Act, including an analysis of the
15 effect of—

16 (i) modifying thresholds;

17 (ii) shortening forms;

18 (iii) combining Bank Secrecy Act
19 forms;

20 (iv) filing reports in periodic batches;

21 and

22 (v) any other method that may reduce
23 the regulatory burden.

24 (2) STUDY CONSIDERATIONS.—In carrying out
25 the study required under paragraph (1), the Direc-

1 tor shall seek to balance law enforcement priorities,
2 regulatory burdens experienced by financial institu-
3 tions, and the requirement for reports to have a
4 “high degree of usefulness to law enforcement”
5 under the Bank Secrecy Act.

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

10 (A) all findings and determinations made
11 in carrying out the study required under sub-
12 section (a); and

13 (B) sample designs of modified SARs
14 forms based on the study results.

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

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

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

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

4 (3) REGULATORY BURDEN.—The term “regu-
5 latory burden” means the man-hours to complete fil-
6 ings, cost of data collection and analysis, and other
7 considerations of chapter 35 of title 44, United
8 States Code (commonly referred to as the Paper-
9 work Reduction Act).

10 (4) SAR; SUSPICIOUS ACTIVITY REPORT.—The
11 term “SAR” and “suspicious activity report” mean
12 a report of a suspicious transaction under section
13 5318(g) of title 31, United States Code.

14 (5) SEASONED BUSINESS CUSTOMER.—The
15 term “seasoned business customer”, shall have such
16 meaning as the Secretary of the Treasury shall pre-
17 scribe, which shall include any person that—

18 (A) is incorporated or organized under the
19 laws of the United States or any State, or is
20 registered as, licensed by, or otherwise eligible
21 to do business within the United States, a
22 State, or political subdivision of a State;

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

1 (C) meet such other requirements as the
2 Secretary may determine necessary or appro-
3 priate.

4 (6) STATE BANK SUPERVISOR.—The term
5 “State bank supervisor” has the meaning given that
6 term under section 3 of the Federal Deposit Insur-
7 ance Act (12 U.S.C. 1813).

8 **SEC. 214. STREAMLINING REQUIREMENTS FOR CURRENCY**
9 **TRANSACTION REPORTS AND SUSPICIOUS**
10 **ACTIVITY REPORTS.**

11 (a) REVIEW.—The Secretary of the Treasury (in con-
12 sultation with Federal law enforcement agencies, the Di-
13 rector of National Intelligence, the Federal functional reg-
14 ulators, and State bank supervisors and in consultation
15 with other relevant stakeholders) shall undertake a formal
16 review of the current financial institution reporting re-
17 quirements under the Bank Secrecy Act and its imple-
18 menting regulations and propose changes to further re-
19 duce regulatory burdens, and ensure that the information
20 provided is of a “high degree of usefulness” to law en-
21 forcement, as set forth under section 5311 of title 31,
22 United States Code.

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

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

4 (2) whether or not currency transaction report
5 and suspicious activity report thresholds should be
6 tied to inflation or otherwise periodically be ad-
7 justed;

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

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

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

20 (6) the current financial institution reporting
21 requirements under the Bank Secrecy Act and its
22 implementing regulations and guidance; and

23 (7) such other items as the Secretary deter-
24 mines appropriate.

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

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

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

12 (2) STATE BANK SUPERVISOR.—The term
13 “State bank supervisor” has the meaning given that
14 term under section 3 of the Federal Deposit Insur-
15 ance Act (12 U.S.C. 1813).

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

1 **TITLE K—MODERNIZING THE**
2 **AML SYSTEM**

3 **SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLI-**
4 **ANCE.**

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

8 “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

9 “(1) IN GENERAL.—The Federal functional reg-
10 ulators shall encourage financial institutions to con-
11 sider, evaluate, and, where appropriate, responsibly
12 implement innovative approaches to meet the re-
13 quirements of this subchapter, including through the
14 use of innovation pilot programs.

15 “(2) EXEMPTIVE RELIEF.—The Secretary, pur-
16 suant to subsection (a), may provide exemptions
17 from the requirements of this subchapter if the Sec-
18 retary determines such exemptions are necessary to
19 facilitate the testing and potential use of new tech-
20 nologies and other innovations.

21 “(3) RULE OF CONSTRUCTION.—This sub-
22 section may not be construed to require financial in-
23 stitutions to consider, evaluate, or implement innova-
24 tive approaches to meet the requirements of the
25 Bank Secrecy Act.

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

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

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

13 **“§ 5333. Innovation Labs**

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

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

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

23 “(1) to provide outreach to law enforcement
24 agencies, State bank supervisors, financial institu-
25 tions, and other persons (including vendors and

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

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

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

10 “(4) to develop metrics of success.

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

15 “(e) DEFINITIONS.—In this subsection:

16 “(1) FEDERAL FUNCTIONAL REGULATOR.—The
17 term ‘Federal functional regulator’ means the Board
18 of Governors of the Federal Reserve System, the
19 Comptroller of the Currency, the Federal Deposit
20 Insurance Corporation, the National Credit Union
21 Administration, the Securities and Exchange Com-
22 mission, and the Commodity Futures Trading Com-
23 mission.

24 “(2) STATE BANK SUPERVISOR.—The term
25 ‘State bank supervisor’ has the meaning given that

1 term under section 3 of the Federal Deposit Insur-
2 ance Act (12 U.S.C. 1813).”.

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

“5333. Innovation Labs.”.

6 **SEC. 303. INNOVATION COUNCIL.**

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

10 **“§ 5334. Innovation Council**

11 “(a) ESTABLISHMENT.—There is established the In-
12 novation Council (hereinafter in this section referred to
13 as the ‘Council’), which shall consist of each Director of
14 an Innovation Lab established under section 5334, a rep-
15 resentative of State bank supervisors (as defined under
16 section 3 of the Federal Deposit Insurance Act (12 U.S.C.
17 1813)), and the Director of the Financial Crimes Enforce-
18 ment Network.

19 “(b) CHAIR.—The Director of the Innovation Lab of
20 the Department of the Treasury shall serve as the Chair
21 of the Council.

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

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

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

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

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

8 “(e) REPORT.—The Council shall issue an annual re-
9 port, for each of the 7 years beginning on the date of en-
10 actment of this section, to the Secretary of the Treasury
11 on the activities of the Council during the previous year,
12 including the success of programs as measured by metrics
13 of success developed pursuant to section 5334(c)(4), and
14 any regulatory or legislative recommendations that the
15 Council may have.”.

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

“5334. Innovation Council.”.

19 **SEC. 304. TESTING METHODS RULEMAKING.**

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

23 “(q) TESTING.—

24 “(1) IN GENERAL.—The Secretary of the
25 Treasury, in consultation with the head of each

1 agency to which the Secretary has delegated duties
2 or powers under subsection (a), shall issue a rule to
3 specify—

4 “(A) with respect to technology and related
5 technology-internal processes (‘new technology’)
6 designed to facilitate compliance with the Bank
7 Secrecy Act requirements, the standards by
8 which financial institutions are to test new
9 technology; and

10 “(B) in what instances or under what cir-
11 cumstance and criteria a financial institution
12 may replace or terminate legacy technology and
13 processes for any examinable technology or
14 process without the replacement or termination
15 being determined an examination deficiency.

16 “(2) STANDARDS.—The standards described
17 under paragraph (1) may include—

18 “(A) an emphasis on using innovative ap-
19 proaches, such as machine learning, rather than
20 rules-based systems;

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

23 “(C) requirements for appropriate data
24 privacy and security; and

1 “(D) a requirement that the algorithms
2 used by the regime be disclosed to the Financial
3 Crimes Enforcement Network, upon request.

4 “(3) CONFIDENTIALITY OF ALGORITHMS.—If a
5 financial institution or any director, officer, em-
6 ployee, or agent of any financial institution, volun-
7 tarily or pursuant to this subsection or any other au-
8 thority, discloses the institution’s algorithms to a
9 Government agency, such algorithms and any mate-
10 rials associated with the creation of such algorithms
11 shall be considered confidential and not subject to
12 public disclosure.”.

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

15 (1) that any manual prepared by the Council is
16 updated to reflect the rulemaking required by the
17 amendment made by subsection (a); and

18 (2) that financial institutions are not penalized
19 for the decisions based on such rulemaking to re-
20 place or terminate technology used for compliance
21 with the Bank Secrecy Act (as defined under section
22 5312 of title 31, United States Code) or other anti-
23 money laundering laws.

1 **SEC. 305. FINCEN STUDY ON USE OF EMERGING TECH-**
2 **NOLOGIES.**

3 (a) STUDY.—

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

7 (A) the status of implementation and in-
8 ternal use of emerging technologies, including
9 artificial intelligence (“AI”), digital identity
10 technologies, blockchain technologies, and other
11 innovative technologies within FinCEN;

12 (B) whether AI, digital identity tech-
13 nologies, blockchain technologies, and other in-
14 novative technologies can be further leveraged
15 to make FinCEN’s data analysis more efficient
16 and effective; and

17 (C) how FinCEN could better utilize AI,
18 digital identity technologies, blockchain tech-
19 nologies, and other innovative technologies to
20 more actively analyze and disseminate the infor-
21 mation it collects and stores to provide inves-
22 tigative leads to Federal, State, Tribal, and
23 local law enforcement, and other Federal agen-
24 cies (collective, “Agencies”), and better support
25 its ongoing investigations when referring a case
26 to the Agencies.

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

5 (3) CONSULTATION.—In conducting the study
6 required under this subsection, FinCEN shall con-
7 sult with the Directors of the Innovations Labs es-
8 tablished in section 302.

9 (b) REPORT.—Not later than the end of the 6-month
10 period beginning on the date of the enactment of this Act,
11 the Director shall issue a report to the Committee on
12 Banking, Housing, and Urban Affairs of the Senate and
13 the Committee on Financial Services of the House of Rep-
14 resentatives containing—

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

17 (2) with respect to each of subparagraphs (A),
18 (B) and (C) of subsection (a)(1), any best practices
19 or significant concerns identified by the Director,
20 and their applicability to AI, digital identity tech-
21 nologies, blockchain technologies, and other innova-
22 tive technologies with respect to U.S. efforts to com-
23 bat money laundering and other forms of illicit fi-
24 nance; and

1 (3) any policy recommendations that could fa-
2 cilitate and improve communication and coordination
3 between the private sector, FinCEN, and Agencies
4 through the implementation of innovative ap-
5 proaches, in order to meet their Bank Secrecy Act
6 (as defined under section 5312 of title 31, United
7 States Code) and anti-money laundering compliance
8 obligations.

9 **SEC. 306. DISCRETIONARY SURPLUS FUNDS.**

10 (a) IN GENERAL.—The dollar amount specified
11 under section 7(a)(3)(A) of the Federal Reserve Act (12
12 U.S.C. 289(a)(3)(A)) is reduced by \$27,000,000.

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