

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of Contents.
- Sec. 2. Bank Secrecy Act definition.

TITLE I—STRENGTHENING TREASURY

- Sec. 101. Improving the definition and purpose of the Bank Secrecy Act.
- Sec. 102. FinCEN Compensation.
- Sec. 103. Civil Liberties and Privacy Officer.
- Sec. 104. Privacy and Civil Liberties Council.
- Sec. 105. International coordination.
- Sec. 106. Treasury Attaché Program.

- Sec. 107. Increasing technical assistance for international cooperation.
- Sec. 108. FinCEN Domestic Liaisons.
- Sec. 109. FinCEN Exchange.
- Sec. 110. Study and strategy on trade-based money laundering.
- Sec. 111. De-risking report.

TITLE II—IMPROVING AML/CFT OVERSIGHT

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

TITLE III—MODERNIZING THE AML SYSTEM

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

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

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

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

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.”.

1 **TITLE I—STRENGTHENING**
2 **TREASURY**

3 **SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF**
4 **THE BANK SECRECY ACT.**

5 Section 5311 of title 31, United States Code, is
6 amended—

7 (1) by inserting “to protect our national and
8 collective security, to safeguard the integrity of the
9 international financial system, and” before “to re-
10 quire”; and

11 (2) by inserting “to law enforcement” before
12 “in criminal”.

13 **SEC. 102. FINCEN COMPENSATION.**

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

16 (1) by redesignating subsection (d) as sub-
17 section (f); and

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

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

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

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

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

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

14 (1) within each Federal financial regulator, by
15 the head of the Federal financial regulator;

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

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

20 (b) DUTIES.—Each Civil Liberties and Privacy Offi-
21 cer shall, with respect to the applicable regulator, Net-
22 work, or Investigation within which the Officer is lo-
23 cated—

24 (1) be consulted each time the regulations are
25 developed or reviewed;

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

4 (3) contribute to the evaluation and regulation
5 of new technologies.

6 (c) **FEDERAL FINANCIAL REGULATOR DEFINED.**—

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

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

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

19 (b) **CHAIR.**—The Civil Liberties and Privacy Officer
20 of the Financial Crimes Enforcement Network shall serve
21 as the Chair of the Council.

22 (c) **DUTY.**—The members of the Council shall coordi-
23 nate on activities related to their duties as Privacy and
24 Civil Liberties Officers.

25 (d) **MEETINGS.**—The meetings of the Council—

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

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

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

7 (e) REPORT.—The Council shall issue an annual re-
8 port to the Congress on the activities of the Council during
9 the previous year and any legislative recommendations
10 that the Council may have.

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

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

18 **SEC. 106. TREASURY ATTACHÉ PROGRAM.**

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

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

22 “(a) IN GENERAL.—There is established the Treas-
23 ury Attaché Program, under which the Secretary of the
24 Treasury shall appoint employees of the Department of
25 the Treasury as a Treasury attaché, who shall—

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

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

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

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

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

13 “(A) information exchanges; and

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

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

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

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

23 “(b) NUMBER OF ATTACHÉS.—The number of Treas-
24 ury attachés appointed under this section at any one time
25 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 serving at the same embassy;
8 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 Attaché Program.”.

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

21 There is authorized to be appropriated for fiscal year
22 2020 to the Secretary of the Treasury for purposes of pro-
23 viding technical assistance for international cooperation
24 an amount equal to twice the amount authorized for such
25 purpose for fiscal year 2019.

1 **SEC. 108. FINCEN DOMESTIC LIAISONS.**

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

5 “(e) FINCEN DOMESTIC LIAISONS.—

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

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

11 “(B) be located at an office in such region
12 (or co-located at an office of another Federal
13 agency in such region);

14 “(C) provide education to, and coordina-
15 tion with, both public- and private-sector enti-
16 ties with respect to FinCEN; and

17 “(D) perform outreach to financial institu-
18 tions (including non-bank financial institutions)
19 and persons who are not financial institutions,
20 especially with respect to actions taken by
21 FinCEN that require specific actions by, or
22 have specific effects on, such institutions or
23 persons, as determined by the Director.

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

1 **SEC. 109. FINCEN EXCHANGE.**

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

5 “(6) FINCEN EXCHANGE.—

6 “(A) ESTABLISHMENT.—The FinCEN Ex-
7 change is hereby established within FinCEN,
8 which shall consist of the FinCEN Exchange
9 program of FinCEN in existence on the day be-
10 fore the date of enactment of this paragraph.

11 “(B) PURPOSE.—The FinCEN Exchange
12 shall further the purpose described under para-
13 graph (1) by facilitating a voluntary public-pri-
14 vate information sharing partnership among
15 law enforcement, financial institutions, and
16 FinCEN to—

17 “(i) effectively and efficiently combat
18 money laundering, terrorism financing, or-
19 ganized crime, and other financial crimes;

20 “(ii) protect the financial system from
21 illicit use; and

22 “(iii) promote national security.

23 “(C) FINCEN DEFINED.—In this para-
24 graph, the term ‘FinCEN’ means the Financial
25 Crimes Enforcement Network of the Depart-
26 ment of the Treasury.”.

1 (b) AUTHORIZATION OF APPROPRIATION.—There is
2 authorized to be appropriated such sums as may be nec-
3 essary to carry out the amendment made by subsection
4 (a).

5 **SEC. 110. STUDY AND STRATEGY ON TRADE-BASED MONEY**
6 **LAUNDERING.**

7 (a) STUDY.—The Secretary of the Treasury shall
8 carry out a study, in consultation with other appropriate
9 Federal departments and agencies, on trade-based money
10 laundering.

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

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

18 (2) proposed strategies to combat trade-based
19 money laundering.

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

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

24 (a) REVIEW.—The Secretary of the Treasury, in con-
25 sultation with the Federal functional regulators (as de-

1 fined under section 103) and other relevant stakeholders,
2 shall undertake a formal review of—

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

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

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

14 (4) the most appropriate ways to promote fi-
15 nancial inclusion while maintaining compliance with
16 the Bank Secrecy Act.

17 (b) REPORT.—Not later than the end of the 1-year
18 period beginning on the date of the enactment of this Act,
19 the Secretary, in consultation with the Federal functional
20 regulators and other relevant stakeholders, shall issue a
21 report to the Congress containing all findings and deter-
22 minations made in carrying out the study required under
23 subsection (a).

24 (c) DEFINITIONS.—In this section:

1 (1) DE-RISKING.—The term “de-risking”
2 means the closing of customer accounts or limiting
3 services of a category of customer due to perceived
4 risk as it relates to compliance with the Bank Se-
5 crecy 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 **TITLE II—IMPROVING AML/CFT** 11 **OVERSIGHT**

12 **SEC. 201. SHARING OF SUSPICIOUS ACTIVITY REPORTS** 13 **WITHIN A FINANCIAL GROUP.**

14 (a) IN GENERAL.—

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

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

21 “(A) IN GENERAL.—Not later than 180
22 days after the date of the enactment of this
23 paragraph, the Secretary of the Treasury shall
24 issue rules permitting any financial institution
25 with a reporting obligation under this sub-

1 section to share information on reports under
2 this subsection with the institution's foreign
3 branches, subsidiaries, and affiliates for the
4 purposes of combating illicit finance risks, not-
5 withstanding any other provision of law except
6 subparagraph (B).

7 “(B) EXCEPTION.—In issuing the regula-
8 tions required under subparagraph (A), the
9 Secretary may not permit a financial institution
10 to share information on reports under this sub-
11 section with a foreign branch, subsidiary, or af-
12 filiate located in a jurisdiction that—

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

15 “(ii) the Secretary, in consultation
16 with the Civil Liberties and Privacy Officer
17 of the Financial Crimes Enforcement Net-
18 work, has determined cannot reasonably
19 protect the privacy and confidentiality of
20 such information.”.

21 (2) NOTIFICATION PROHIBITIONS.—Section
22 5318(g)(2)(A) of title 31, United States Code, is
23 amended—

24 (A) in clause (i), by inserting after “trans-
25 action has been reported” the following: “or

1 otherwise reveal any information that would re-
2 veal that the transaction has been reported, in-
3 cluding materials prepared or used by the fi-
4 nancial institution for the purpose of identifying
5 and detecting potentially suspicious activity”;
6 and

7 (B) in clause (ii), by inserting after “trans-
8 action has been reported,” the following: “or
9 otherwise reveal any information that would re-
10 veal that the transaction has been reported, in-
11 cluding materials prepared or used by the fi-
12 nancial institution for the purpose of identifying
13 and detecting potentially suspicious activity,”.

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

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

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

22 (1) by moving section 1009A so as to appear
23 after section 1009; and

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

1 **“SEC. 1009B. AML/CFT TRAINING.**

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

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

9 “(2) financial crime patterns and trends;

10 “(3) the high-level context for why AML and
11 CFT programs are necessary for law enforcement
12 agencies and other national security agencies, and
13 what risks the programs seek to mitigate; and

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

16 “(b) TRAINING MATERIALS AND STANDARDS.—The
17 Council shall establish uniform training materials and
18 standards for use in the training required under sub-
19 section (a).”.

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

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

24 “(o) SHARING OF COMPLIANCE RESOURCES.—

25 “(1) SHARING PERMITTED.—Two or more fi-
26 nancial institutions may enter into collaborative ar-

1 rangements in order to more efficiency comply with
2 the requirements of this subchapter.

3 “(2) OUTREACH.—The Secretary of the Treas-
4 ury and the appropriate supervising agencies shall
5 carry out an outreach program to provide financial
6 institutions with information, including best prac-
7 tices, with respect to the sharing of resources de-
8 scribed under paragraph (1).”.

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

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

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

15 (1) practices within the United States Govern-
16 ment for providing feedback (“feedback loop”) to
17 relevant parties (including regulated private entities)
18 on the usage and usefulness of personally identifi-
19 able information (“PII”), sensitive-but-unclassified
20 (“SBU”) data, or similar information provided by
21 such parties to Government users of such informa-
22 tion and data (including law enforcement or regu-
23 lators); and

24 (2) any practices or standards outside the
25 United States for providing feedback loops on sen-

1 sitive information and public-private partnership in-
2 formation sharing efforts, specifically related to ef-
3 forts to combat money laundering and other forms
4 of illicit finance.

5 (b) REPORT.—Not later than the end of the 18-
6 month period beginning on the date of the enactment of
7 this Act, the Comptroller General shall issue a report to
8 the Committee on Banking, Housing, and Urban Affairs
9 of the Senate and the Committee on Financial Services
10 of the House of Representatives containing—

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

14 (2) with respect to each of paragraphs (1) and
15 (2) of subsection (a), any best practices or signifi-
16 cant concerns identified by the Comptroller General,
17 and their applicability to public-private partnerships
18 and feedback loops with respect to U.S. efforts to
19 combat money laundering and other forms of illicit
20 finance.

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

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

1 (b) REPORT.—Not later than the end of the 1-year
2 period beginning on the date of enactment of this Act, the
3 Director shall issue a report to the Committee on Finan-
4 cial Services of the House of Representatives and the
5 Committee on Banking, Housing, and Urban Affairs of
6 the Senate containing all findings and determinations
7 made in carrying out the study required under this sec-
8 tion.

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

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

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

17 Section 314(a) of the USA PATRIOT Act (31 U.S.C.
18 5311 note), as amended by section 109, is further amend-
19 ed by adding at the end the following:

20 “(7) POINT OF CONTACT LIST.—

21 “(A) IN GENERAL.—The Secretary shall
22 maintain a list containing contact information
23 for with respect to a law enforcement agency,
24 those individuals who serve as points of contact

1 for a Suspicious Activity Report review com-
2 mittee.

3 “(B) AVAILABILITY OF LIST.—The Sec-
4 retary shall make the list of contact information
5 described under subparagraph (A) available to
6 all financial institutions and law enforcement
7 agencies.”.

8 **SEC. 207. SHARING OF THREAT PATTERN AND TREND IN-**
9 **FORMATION.**

10 Section 314(a) of the USA PATRIOT Act (31 U.S.C.
11 5311 note), as amended by section 206, is further amend-
12 ed by adding at the end the following:

13 “(8) SHARING OF THREAT PATTERN AND
14 TREND INFORMATION.—

15 “(A) IN GENERAL.—Not less than month-
16 ly, the Secretary shall provide financial institu-
17 tions with typologies on emerging money laun-
18 dering and counter terror financing threat pat-
19 terns and trends.

20 “(B) INFORMATION CLASSIFICATION.—In
21 providing information pursuant to subpara-
22 graph (A), the Secretary may provide public
23 and sensitive information to financial institu-
24 tions, but may not provide classified informa-
25 tion, unless otherwise permitted by law.”.

1 **SEC. 208. MODERNIZATION AND UPGRADING WHISTLE-**
2 **BLOWER PROTECTIONS.**

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

5 “(d) SOURCE OF REWARDS.—For the purposes of
6 paying an award under this section, there are authorized
7 to be appropriated such sums as may be necessary, and
8 the Secretary may also use funds from the Department
9 of the Treasury Forfeiture Fund and the Department of
10 Justice Assets Forfeiture Fund.”

11 (b) WHISTLEBLOWER INCENTIVES.—

12 Chapter 53 of title 31, United States Code, is
13 amended—

14 (1) by inserting after section 5323 the fol-
15 lowing:

16 **“§ 5323A. Whistleblower incentives**

17 “(a) DEFINITIONS.—In this section:

18 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
19 ACTION.—The term ‘covered judicial or administra-
20 tive action’ means any judicial or administrative ac-
21 tion brought by FinCEN under the Bank Secrecy
22 Act that results in monetary sanctions exceeding
23 \$1,000,000.

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

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

4 “(A) any monies, including penalties,
5 disgorgement, and interest, ordered to be paid;
6 and

7 “(B) any monies deposited into a
8 disgorgement fund as a result of such action or
9 any settlement of such action.

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

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

14 “(B) is not known to FinCEN from any
15 other source, unless the whistleblower is the
16 original source of the information; and

17 “(C) is not exclusively derived from an al-
18 legation made in a judicial or administrative
19 hearing, in a governmental report, hearing,
20 audit, or investigation, or from the news media,
21 unless the whistleblower is a source of the infor-
22 mation.

23 “(5) RELATED ACTION.—The term ‘related ac-
24 tion’, when used with respect to any judicial or ad-
25 ministrative action brought by FinCEN, means any

1 judicial or administrative action that is based upon
2 original information provided by a whistleblower that
3 led to the successful enforcement of the action.

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

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

12 “(b) AWARDS.—

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

22 “(A) not less than 10 percent, in total, of
23 what has been collected of the monetary sanc-
24 tions imposed in the action or related actions;
25 and

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

4 “(2) SOURCE OF AWARDS.—For the purposes of
5 paying any award under paragraph (1) there are au-
6 thorized to be appropriated such sums as may be
7 necessary, and the Secretary may also use funds
8 from the Department of the Treasury Forfeiture
9 Fund and the Department of Justice Assets For-
10 feiture Fund.

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

23 “(i) shall take into consideration—

24 “(I) the significance of the infor-
25 mation provided by the whistleblower

1 to the success of the covered judicial
2 or administrative action;

3 “(II) the degree of assistance
4 provided by the whistleblower and any
5 legal representative of the whistle-
6 blower in a covered judicial or admin-
7 istrative action;

8 “(III) the mission of FinCEN in
9 deterring violations of the law by
10 making awards to whistleblowers who
11 provide information that lead to the
12 successful enforcement of such laws;
13 and

14 “(IV) such additional relevant
15 factors as the Secretary may establish
16 by rule; and

17 “(ii) shall not take into consideration
18 the balance of any fund described under
19 section 5323(d).

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

22 “(A) to any whistleblower who is, or was at
23 the time the whistleblower acquired the original
24 information submitted to FinCEN, a member,
25 officer, or employee of—

1 “(i) an appropriate regulatory agency;

2 “(ii) the Department of Justice;

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

4 “(iv) a law enforcement organization;

5 “(B) to any whistleblower who is convicted
6 of a criminal violation related to the judicial or
7 administrative action for which the whistle-
8 blower otherwise could receive an award under
9 this section;

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

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

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

23 “(d) REPRESENTATION.—

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

4 “(2) REQUIRED REPRESENTATION.—

5 “(A) IN GENERAL.—Any whistleblower
6 who anonymously makes a claim for an award
7 under subsection (b) shall be represented by
8 counsel if the whistleblower anonymously sub-
9 mits the information upon which the claim is
10 based.

11 “(B) DISCLOSURE OF IDENTITY.—Prior to
12 the payment of an award, a whistleblower shall
13 disclose their identity and provide such other
14 information as the Secretary may require, di-
15 rectly or through counsel for the whistleblower.

16 “(e) APPEALS.—Any determination made under this
17 section, including whether, to whom, or in what amount
18 to make awards, shall be in the discretion of the Secretary.
19 Any such determination, except the determination of the
20 amount of an award if the award was made in accordance
21 with subsection (b), may be appealed to the appropriate
22 court of appeals of the United States not more than 30
23 days after the determination is issued by the Secretary.
24 The court shall review the determination made by the Sec-
25 retary in accordance with section 706 of title 5.”; 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. 209. CERTAIN VIOLATORS BARRED FROM SERVING ON**
5 **PUBLIC COMPANY BOARDS.**

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

8 “(f) CERTAIN VIOLATORS BARRED FROM SERVING
9 ON PUBLIC COMPANY BOARDS.—

10 “(1) IN GENERAL.—An individual found to
11 have committed an egregious violation of a provision
12 of (or rule issued under) this subchapter, section 21
13 of the Federal Deposit Insurance Act, or section 123
14 of Public Law 91-508 shall be barred from serving
15 on the board of directors of a public company for a
16 10-year period beginning on the date of such find-
17 ing.

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

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

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

24 “(ii) a civil violation where the indi-
25 vidual knowingly committed such violation

1 and the violation facilitated money laun-
2 dering or the financing of terrorism.

3 “(B) PUBLIC COMPANY.—The term ‘public
4 company’ means an issuer the securities of
5 which are traded on a national securities ex-
6 change.

7 “(C) OTHER SECURITIES TERMS.—The
8 terms ‘issuer’ and ‘national securities exchange’
9 have the meaning given those terms, respec-
10 tively, under section 3 of the Securities Ex-
11 change Act of 1934.”.

12 **SEC. 210. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
13 **CRECY ACT VIOLATORS.**

14 Section 5321 of title 31, United States Code, as
15 amended by section 209, is further amended by adding
16 at the end the following:

17 “(g) ADDITIONAL DAMAGES FOR REPEAT VIOLA-
18 TORS.—In addition to any other fines permitted by this
19 section and section 5322, with respect to a person who
20 has previously violated a provision of (or rule issued
21 under) this subchapter, section 21 of the Federal Deposit
22 Insurance Act, or section 123 of Public Law 91-508, the
23 Secretary may impose an additional civil penalty against
24 such person for each additional such violation in an

1 amount equal to up three times the profit gained or loss
2 avoided by such person as a result of the violation.”.

3 **SEC. 211. JUSTICE ANNUAL REPORT ON DEFERRED AND**
4 **NON-PROSECUTION AGREEMENTS.**

5 (a) ANNUL REPORT.—The Attorney General shall
6 issue an annual report to the Committees on Financial
7 Services and the Judiciary of the House of Representa-
8 tives and the Committees on Banking, Housing, and
9 Urban Affairs and the Judiciary of the Senate con-
10 taining—

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

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

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

21 (b) CLASSIFIED ANNEX.—Each report under sub-
22 section (a) may include a classified annex, if the Attorney
23 General determines it appropriate.

24 (c) BANK SECRECY ACT DEFINED.—For purposes of
25 this section, the term “Bank Secrecy Act” has the mean-

1 ing given that term under section 5312 of title 31, United
2 States Code.

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

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

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

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

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

1 **SEC. 213. PROHIBITION ON TAX DEDUCTIONS FOR ATTOR-**
2 **NEY'S FEES RELATED TO BANK SECRECY ACT**
3 **SETTLEMENTS AND COURT COSTS.**

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

6 “(6) VIOLATIONS OF THE BANK SECRECY
7 ACT.—In the case of a payment described in para-
8 graph (1) that is in relation to any violation of the
9 Bank Secrecy Act (as defined under section 5312 of
10 title 31, United States Code), no deduction shall be
11 allowed under this chapter for attorney’s fees related
12 to such payment.”.

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

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

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

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

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

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

24 (b) RULEMAKING.—Not later than the end of the
25 180-day period beginning on the date of the enactment
26 of this Act, the Secretary of the Treasury shall issue regu-

1 lations to carry out the amendments made by subsection
2 (a).

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

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

8 The Secretary of the Treasury shall revise the geo-
9 graphic targeting order issued by the Financial Crimes
10 Enforcement Network on November 15, 2018 (the
11 “Order”), so that the Order—

12 (1) applies to commercial real estate to the
13 same extent as the Order applies to residential real
14 estate; and

15 (2) applies to a purchase made, at least in part,
16 using an in-kind transaction to the same extent as
17 the Order applies to a purchase made, at least in
18 part, using currency or a cashier’s check, a certified
19 check, a traveler’s check, a personal check, a busi-
20 ness check, a money order in any form, a funds
21 transfer, or virtual currency.

1 **TITLE III—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 203, is further amended by adding
7 at the end the following:

8 “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

9 “(1) IN GENERAL.—The financial agencies shall
10 encourage financial institutions to consider, evaluate,
11 and, where appropriate, responsibly implement inno-
12 vative approaches to meet the requirements of this
13 subchapter, including through the use of innovation
14 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) FINANCIAL AGENCY DEFINED.—In this
22 subsection, the term ‘financial agency’ means the
23 Department of the Treasury, the Board of Gov-
24 ernors of the Federal Reserve System, the Federal
25 Deposit Insurance Corporation, the National Credit

1 Union Administration, the Office of the Comptroller
2 of the Currency, and the Securities and Exchange
3 Commission.”.

4 **SEC. 302. INNOVATION LABS.**

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

7 **“§ 5327. Innovation Labs**

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

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

13 “(c) DUTIES.—The duties of the Innovation Lab
14 shall be—

15 “(1) to provide outreach to law enforcement
16 agencies, financial institutions, and other persons
17 (including vendors and technology companies) with
18 respect to innovation and new technologies used to
19 comply with the requirements of the Bank Secrecy
20 Act; and

21 “(2) to support the implementation of respon-
22 sible innovation and new technology, in a manner
23 that complies with the requirements of the Bank Se-
24 crecy Act.

1 “(d) FINCEN LAB.—The Innovation Lab established
2 under subsection (a) within the Department of the Treas-
3 ury shall be a lab within the Financial Crimes Enforce-
4 ment Network.

5 “(e) FINANCIAL AGENCY DEFINED.—In this section,
6 the term ‘financial agency’ means the Department of the
7 Treasury, the Board of Governors of the Federal Reserve
8 System, the Federal Deposit Insurance Corporation, the
9 National Credit Union Administration, the Office of the
10 Comptroller of the Currency, and the Securities and Ex-
11 change Commission.”.

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

“5327. Innovation Labs.”.

16 **SEC. 303. INNOVATION COUNCIL.**

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

22 (b) CHAIR.—The Director of the Innovation Lab of
23 the Department of the Treasury shall serve as the Chair
24 of the Council.

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

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

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

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

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

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

16 **SEC. 304. PARALLEL RUNS RULEMAKING.**

17 Section 5318 of title 31, United States Code, as
18 amended by section 301, is further amended by adding
19 at the end the following:

20 “(q) PARALLEL RUNS RULEMAKING.—The Secretary
21 of the Treasury, in consultation with the Director of the
22 Financial Crimes Enforcement Network and the head of
23 each agency to which the Secretary has delegated duties
24 or powers under subsection (a), shall issue a rule to speci-
25 fy—

1 “(1) with respect to technology and processes
2 designed to facilitate compliance with the Bank Se-
3 crecy Act requirements, under what circumstances it
4 is necessary for a financial institution to test new
5 technology and processes alongside legacy technology
6 and processes (‘parallel runs’);

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

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