§ 310. Financial Crimes Enforcement Network

(a) In general -- The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105-18, in this section referred to as FinCEN) on April 25, 1990, shall be a bureau in the Department of the Treasury.

(b) Director. --

(1) Appointment. --The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

(2) Duties and powers. --The duties and powers of the Director are as follows:

(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act.

(ii) Information regarding national and international currency flows.

(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

(iv) Other privately and publicly available information.

(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement to **--**

(i) identify possible criminal activity to appropriate Federal, State, local, Tribal, and foreign law enforcement agencies;

(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(iii) identify possible instances of noncompliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

(v) determine emerging trends and methods in money laundering and other financial crimes;

(vi) support the conduct of intelligence or counterintelligence activities, including analysis, to protect against ~~international~~ terrorism; and

(vii) support government initiatives against money laundering.

(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

(E) Furnish research, analytical, and informational services to financial institutions, appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, Tribal, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

(F) Assist Federal, State, local, Tribal, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91508 , and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

(J) Promulgate regulations under section 5318(h)(4)(D), as appropriate, to implement the government-wide anti-money laundering and countering the financing of terrorism priorities established by the Secretary of the Treasury under section 5318(h)(4)(A).

(K) Communicate regularly with financial institutions and Federal functional regulators that examine financial institutions for compliance with subchapter II of chapter 53 and regulations promulgated under that subchapter and law enforcement authorities to explain the United States Government's anti-money laundering and countering the financing of terrorism priorities.

(L) Give and receive feedback to and from financial institutions, State bank supervisors, and State credit union supervisors (as those terms are defined in section 6003 of the Anti-Money Laundering Act of 2020) regarding the matters addressed in subchapter II of chapter 53 and regulations promulgated under that subchapter.

(M) Maintain money laundering and terrorist financing investigation financial experts capable of identifying, tracking, and analyzing financial crime networks and identifying emerging threats to support Federal civil and criminal investigations.

(N) Maintain emerging technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions in countering money laundering and the financing of terrorism.

(O) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

(c) Requirements relating to maintenance and use of data banks. --The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide --

(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by FinCEN, including--

(A) the submission of reports through the Internet or other secure network, whenever possible;

(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining --

(A) who is to be given access to the information maintained by FinCEN;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

(d) FinCEN Exchange.—

(1) Establishment.—The FinCEN Exchange is hereby established within FinCEN

(2) Purpose.—The FinCEN Exchange shall facilitate a voluntary public-private information sharing partnership among law enforcement agencies, national security agencies, financial institutions, and FinCEN to—

(A) effectively and efficiently combat money laundering, terrorism financing, organized crime, and other financial crimes, including by promoting innovation and technical advances in reporting—

(i) under subchapter II of chapter 53 and the regulations promulgated under that subchapter; and

(ii) with respect to other anti-money laundering requirements;

(B) protect the financial system from illicit use; and

(C) promote national security.

(3) Report.—

(A) In general.—Not later than 1 year after the date of enactment of this subsection, and once every 2 years thereafter for the next 5 years, the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

(i) an analysis of the efforts undertaken by the FinCEN Exchange, which shall include an analysis of—

(I) the results of those efforts; and

(II) the extent and effectiveness of those efforts, including any benefits realized by law enforcement agencies from partnering with financial institutions, which shall be consistent with standards protecting sensitive information; and

(ii) any legislative, administrative, or other recommendations the Secretary may have to strengthen the efforts of the FinCEN Exchange.

(B) Classified annex.—Each report under subparagraph (A) may include a classified annex.

(4) Information sharing requirement.—Information shared under this subsection shall be shared—

(A) in compliance with all other applicable Federal laws and regulations;

(B) in such a manner as to ensure the appropriate confidentiality of personal information; and

(C) at the discretion of the Director, with the appropriate Federal functional regulator, as defined in section 6003 of the Anti-Money Laundering Act of 2020.

(5) Protection of shared information.—

(A) Regulations.—FinCEN shall, as appropriate, promulgate regulations that establish procedures for the protection of information shared and exchanged between FinCEN and the private sector in accordance with this section, consistent with the capacity, size, and nature of the financial institution to which the particular procedures apply.

(B) Use of information.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve the financing of terrorism, money laundering, proliferation financing, or other financial crimes.

(6) Rule of construction.—Nothing in this subsection may be construed to create new information sharing authorities or requirements relating to the Bank Secrecy Act.

(e) Special hiring authority.—

(1) In general.—The Secretary of the Treasury may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, candidates directly to positions in the competitive service, as defined in section 2102 of that title, in FinCEN.

(2) Primary responsibilities.—The primary responsibility of candidates appointed under paragraph (1) shall be to provide substantive support in support of the duties described in subparagraphs (A) through (O) of subsection (b)(2).

(f) FinCEN Domestic Liaisons.—

(1) Establishment of office.—There is established in FinCEN an Office of Domestic Liaison, which shall be headed by the Chief Domestic Liaison.

(2) Location.—The Office of the Domestic Liaison shall be located in the District of Columbia.

(g) Chief domestic liaison.—

(1) In general.—The Chief Domestic Liaison, shall—

(A) report directly to the Director; and

(B) be appointed by the Director, from among individuals with experience or familiarity with anti-money laundering program examinations, supervision, and enforcement.

(2) Compensation.—The annual rate of pay for the Chief Domestic Liaison shall be equal to the highest rate of annual pay for similarly situated senior executives who report to the Director.

(3) Staff of office.—The Chief Domestic Liaison, with the concurrence of the Director, may retain or employ counsel, research staff, and service staff, as the Liaison determines necessary to carry out the functions, powers, and duties under this subsection.

(4) Domestic liaisons.—The Chief Domestic Liaison, with the concurrence of the Director, shall appoint not fewer than 6 senior FinCEN employees as FinCEN Domestic Liaisons, who shall—

(A) report to the Chief Domestic Liaison;

(B) each be assigned to focus on a specific region of the United States; and

(C) be located at an office in such region or co-located at an office of the Board of Governors of the Federal Reserve System in such region.

(5) Functions of the domestic liaisons.—

(A) In general.—Each Domestic Liaison shall—

(i) in coordination with relevant Federal functional regulators, perform outreach to BSA officers at financial institutions, including nonbank financial institutions, and persons that are not financial institutions, especially with respect to actions taken by FinCEN that require specific actions by, or have specific effects on, such institutions or persons, as determined by the Director;

(ii) in accordance with applicable agreements, receive feedback from financial institutions and examiners of Federal functional regulators regarding their examinations under the Bank Secrecy Act and communicate that feedback to FinCEN, the Federal functional regulators, and State bank supervisors;

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

(iv) act as a liaison between financial institutions and their Federal functional regulators, State bank supervisors, and State credit union supervisors with respect to information sharing matters involving the\ Bank Secrecy Act and regulations promulgated thereunder;

(v) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Office of Domestic Liaison;

(vi) to the extent practicable, periodically propose to the Director changes in the regulations, guidance, or orders of FinCEN, including any legislative or administrative changes that may be appropriate to ensure improved coordination and expand information sharing under this paragraph; and

(vii) perform such other duties as the Director determines to be appropriate.

(B) Rule of construction.—Nothing in this paragraph may be construed to permit the Domestic Liaisons to have authority over supervision, examination, or enforcement processes.

(6) Access to documents.—FinCEN, to the extent practicable and consistent with appropriate safeguards for sensitive enforcement-related, pre-decisional, or deliberative information, shall ensure that the Domestic Liaisons have full access to the documents of FinCEN, as necessary to carry out the functions of the Office of Domestic Liaison.

(7) Annual reports.—

(A) In general.—Not later than 1 year after the date of enactment of this subsection and every 2 years thereafter for 5 years, the Director shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Office of Domestic Liaison for the following fiscal year and the activities of the Office during the immediately preceding fiscal year.

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

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

(ii) information on steps that the Office of Domestic Liaison has taken during the reporting period to address feedback received by financial institutions and examiners of Federal functional regulators relating to examinations under the Bank Secrecy Act;

(iii) recommendations to the Director for such administrative and legislative actions as may be appropriate to address information sharing and coordination issues encountered by financial institutions or examiners of Federal functional regulators; and

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

(C) Sensitive information.—Notwithstanding subparagraph (D), FinCEN shall review each report required under subparagraph (A) before the report is submitted to ensure the report does not disclose sensitive information.

(D) Independence.—

(i) In general.—Each report required under subparagraph (A) shall be provided directly to the committees listed in that subparagraph, except that a relevant Federal functional regulator, State bank supervisor, Office of Management and Budget, or State credit union supervisor shall have an opportunity for review and comment before the submission of the report.

(ii) Rule of construction.—Nothing in clause (i) may be construed to preclude FinCEN or any other department or agency from reviewing a report required under subparagraph (A) for the sole purpose of protecting—

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

(II) classified information.

(E) Classified information.—No report required under subparagraph (A) may contain classified information.

(8) Definition.—In this subsection, the term 'Federal functional regulator' has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

(h) FinCEN Foreign Financial Unit Liaisons.—

(1) In general.—The Director of FinCEN shall appoint not fewer than 6 Foreign Financial Intelligence Unit Liaisons, who shall—

(A) be knowledgeable about domestic or international anti-money laundering or countering the financing of terrorism laws and regulations;

(B) possess a technical understanding of the Bank Secrecy Act, the protocols of the Egmont Group of Financial Intelligence Units, and the Financial Action Task Force and the recommendations issued by that Task Force;

(C) be co-located in a United States embassy, a similar United States Government facility, or a foreign government facility, as appropriate;

(D) facilitate capacity building and perform outreach with respect to anti-money laundering and countering the financing of terrorism regulatory and analytical frameworks;

(E) establish and maintain relationships with officials from foreign intelligence units, regulatory authorities, ministries of finance, central banks, law enforcement agencies, and other competent authorities;

(F) participate in industry outreach engagements with foreign financial institutions and other commercial actors on anti-money laundering and countering the financing of terrorism issues;

(G) coordinate with representatives of the Department of Justice at United States Embassies who perform similar functions on behalf of the United States Government; and

(H) perform such other duties as the Director determines to be appropriate.

(2) Compensation.—Each Foreign Financial Intelligence Unit Liaison appointed under paragraph (1) shall receive compensation at the higher of—

(A) the rate of compensation paid to a Foreign Service officer at a comparable career level serving at the same embassy or facility, as applicable; or

(B) the rate of compensation that the Liaison would have otherwise received.

(i) Protection of Information Obtained by Foreign Law Enforcement and Financial Intelligence Units; Freedom Of Information Act.—

(1) Definitions.—In this subsection:

(A) Foreign anti-money laundering and countering the financing of terrorism authority.—The term 'foreign anti-money laundering and countering the financing of terrorism authority' means any foreign agency or authority that is empowered under foreign law to regulate or supervise foreign financial institutions (or designated non-financial businesses and professions) with respect to laws concerning anti-money laundering and countering the financing of terrorism and proliferation.

(B) Foreign Financial Intelligence Unit.—The term 'foreign financial intelligence unit' means any foreign agency or authority, including a foreign financial intelligence unit that is a member of the Egmont Group of Financial Intelligence Units, that is empowered under foreign law as a jurisdiction's national center for—

(i) receipt and analysis of suspicious transaction reports and other information relevant to money laundering, associated predicate offenses, and the financing of terrorism; and

(ii) the dissemination of the results of the analysis described in clause (i).

(C) Foreign law enforcement authority.—The term 'foreign law enforcement authority' means any foreign agency or authority that is empowered under foreign law to detect, investigate, or prosecute potential violations of law.

(2) Information exchanged with foreign law enforcement authorities, foreign financial intelligence units, and foreign anti-money laundering and countering the financing of terrorism authorities. —

(A) In general.—The Department of the Treasury may not be compelled to search for or disclose information exchanged with a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(B) Inapplicability of Freedom of Information Act.—

(i) In general.—Section 552(a)(3) of title 5 (commonly known as the 'Freedom of Information Act') shall not apply to any request for records or information exchanged between the Department of the Treasury and a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(ii) Specifically exempted by statute.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of that section.

(C) Clarification on information limitations and protections.—

(i) In general.—The provisions of this paragraph shall apply only to information necessary to exercise the duties and powers described under subsection (b).

(ii) Appropriate confidentiality, classification, and data security requirements.— The Secretary, in consultation with the Director, shall ensure that information provided to a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority, is subject to appropriate confidentiality, classification, and data security requirements.

(3) Savings provision.—Nothing in this section shall authorize the Department of the Treasury to withhold information from Congress, decline to carry out a search for information requested by Congress, or prevent the Department of the Treasury from complying with an order of a court of the United States in an action commenced by the United States.

(j) Analytical experts.—

(1) In general.—FinCEN shall maintain financial experts capable of identifying, tracking, and tracing money laundering and terrorist-financing networks in order to conduct and support civil and criminal anti-money laundering and countering the financing of terrorism investigations conducted by the United States Government.

(2) FinCEN analytical hub.—FinCEN, upon a reasonable request from a Federal agency, shall, in collaboration with the requesting agency and the appropriate Federal functional regulator, analyze the potential anti-money laundering and countering the financing of terrorism activity that prompted the request.

(k) Definitions.—In this section:

(1) Bank Secrecy Act.—The term 'Bank Secrecy Act' has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

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

(3) Financial institution.—The term 'financial institution' has the meaning given the term in section 5312 of this title.

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

(5) State credit union supervisor.—The term 'State credit union supervisor' means a State official described in section 107A(e) of the Federal Credit Union Act (12 U.S.C. 1757a(e)).

(l) Authorization of appropriations.—

(1) IN GENERAL.—There are authorized to be appropriated ~~for~~to FinCEN to carry out this section, to remain available until expended—

(A) $~~100,419,000~~136,000,000 for fiscal year ~~2011 and such sums as may be necessary~~2021;

(B) $60,000,000 for fiscal year 2022; and

(C) $35,000,000 for each of ~~the~~ fiscal years ~~2012 and 2013~~2023 through 2026.

(2) Authorization for funding key technological improvements in mission-critical FinCEN systems. --There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

(A) BSA direct. --For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107-56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN data banks, $16,500,000.

(B) Advanced analytical technologies. --To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, $5,000,000.

(C) Data networking modernization.——To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, $3,000,000.

(D) Enhanced compliance capability.——To improve the effectiveness of the Office of Compliance in FinCEN, $3,000,000.

(E) Detection and prevention of financial crimes and terrorism.——To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, $8,000,000.

* * *

§ 312. Terrorism and financial intelligence

(a) Office of Terrorism and Financial Intelligence. --

(1) Establishment. -- There is established within the Department of the Treasury the Office of Terrorism and Financial Intelligence (in this section referred to as "OTFI"), which shall be the successor to any such office in existence on the date of enactment of this section.

(2) Leadership. --

(A) Undersecretary. -- There is established within the Department of the Treasury, the Office of the Undersecretary for Terrorism and Financial Crimes, who shall serve as the head of the OTFI, and shall report to the Secretary of the Treasury through the Deputy Secretary of the Treasury. The Office of the Undersecretary for Terrorism and Financial Crimes shall be the successor to the Office of the Undersecretary for Enforcement.

(B) Appointment. -- The Undersecretary for Terrorism and Financial Crimes shall be appointed by the President, by and with the advice and consent of the Senate.

(3) Assistant Secretary for Terrorist Financing. --

(A) Establishment. -- There is established within the OTFI the position of Assistant Secretary for Terrorist Financing.

(B) Appointment. -- The Assistant Secretary for Terrorist Financing shall be appointed by the President, by and with the advice and consent of the Senate.

(C) Duties. -- The Assistant Secretary for Terrorist Financing shall be responsible for formulating and coordinating the counter terrorist financing and anti-money laundering efforts of the Department of the Treasury, and shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(4) Functions. -- The functions of the OTFI include providing policy, strategic, and operational direction to the Department on issues relating to --

(A) implementation of titles I and II of the Bank Secrecy Act;

(B) United States economic sanctions programs;

(C) combating terrorist financing;

(D) combating financial crimes, including money laundering, counterfeiting, and other offenses threatening the integrity of the banking and financial systems;

(E) combating illicit financing relating to human trafficking;

(F) other enforcement matters;

(~~F~~G) those intelligence analysis and coordination functions described in subsection (b); and

(~~G~~H) the security functions and programs of the Department of the Treasury.

(5) Reports to Congress on proposed measures. -- The Undersecretary for Terrorism and Financial Crimes and the Assistant Secretary for Terrorist Financing shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 72 hours after proposing by rule, regulation, order, or otherwise, any measure to reorganize the structure of the Department for combatting money laundering and terrorist financing, before any such proposal becomes effective.

(6) Other offices within OTFI. -- Notwithstanding any other provision of law, the following offices of the Department of the Treasury shall be within the OTFI:

(A) The Office of the Assistant Secretary for Intelligence and Analysis, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(B) The Office of the Assistant Secretary for Terrorist Financing, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(C) The Office of Foreign Assets Control (in this section referred to as the " OFAC"), which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(D) The Executive Office for Asset Forfeiture, which shall report to the Undersecretary for Terrorism and Financial Crimes.

(E) The Office of Intelligence and Analysis (in this section referred to as the " OIA"), which shall report to the Assistant Secretary for Intelligence and Analysis.

(F) The Office of Terrorist Financing, which shall report to the Assistant Secretary for Terrorist Financing.

(7) FinCEN. --

(A) Reporting to Undersecretary. -- The Financial Crimes Enforcement Network (in this section referred to as FinCEN), a bureau of the Department of the Treasury, shall report to the Undersecretary for Terrorism and Financial Crimes. The Undersecretary for Terrorism and Financial Crimes may not redelegate its reporting authority over FinCEN.

(B) Office of Compliance. -- There is established within FinCEN, an Office of Compliance.

(8) Interagency coordination.--The Secretary of the Treasury, after consultation with the Undersecretary for Terrorism and Financial Crimes, shall designate an office within the OTFI that shall coordinate efforts to combat the illicit financing of human trafficking with--

(A) other offices of the Department of the Treasury;

(B) other Federal agencies, including--

(i) the Office to Monitor and Combat Trafficking in Persons of the Department of State; and

(ii) the Interagency Task Force to Monitor and Combat Trafficking;

(C) State and local law enforcement agencies; and

(D) foreign governments.

(b) Office of Intelligence and Analysis. --

(1) Assistant Secretary for Intelligence and Analysis. -- The Assistant Secretary for Intelligence and Analysis shall head the OIA.

(2) Responsibilities. -- The OIA shall be responsible for the receipt, analysis, collation, and dissemination of intelligence and counterintelligence information related to the operations and responsibilities of the entire Department of the Treasury, including all components and bureaus of the Department.

(3) Primary functions. -- The primary functions of the OIA are --

(A) to build a robust analytical capability on terrorist finance by coordinating and overseeing work involving intelligence analysts in all components of the Department of the Treasury, focusing on the highest priorities of the Department, as well as ensuring that the existing intelligence needs of the OFAC and FinCEN are met; and

(B) to provide intelligence support to senior officials of the Department on a wide range of international economic and other relevant issues.

(4) Other functions and duties. -- The OIA shall --

(A) carry out the intelligence support functions that are assigned, to the Office of Intelligence Support under section 311 (pursuant to section 105 of the Intelligence Authorization Act for Fiscal Year 2004);

(B) serve in a liaison capacity with the intelligence community; and

(C) represent the Department in various intelligence related activities.

(5) Duties of the Assistant Secretary. -- The Assistant Secretary for Intelligence and Analysis shall serve as the Senior Officer Intelligence Community, and shall represent the Department in intelligence community fora, including the National Foreign Intelligence Board committees and the Intelligence Community Management Staff.

(c) Delegation. -- To the extent that any authorities, powers, and responsibilities over enforcement matters delegated to the Undersecretary for Terrorism and Financial Crimes, or the positions of Assistant Secretary for Terrorism and Financial Crimes, Assistant Secretary for Enforcement and Operations, or Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, have not been transferred to the Department of Homeland Security, the Department of Justice, or the Assistant Secretary for Tax Policy (related to the customs revenue functions of the Bureau of Alcohol and Tobacco Tax and Trade), those remaining authorities, powers, and responsibilities are delegated to the Undersecretary for Terrorism and Financial Crimes.

(d) Designation as Enforcement Organization. -- The Office of Terrorism and Financial Intelligence (including any components thereof) is designated as a law enforcement organization of the Department of the Treasury for purposes of section 9705 of title 31, United States Code, and other relevant authorities.

(e) Use of Existing Resources. -- The Secretary may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary on the date of enactment of this section in carrying out this section, except as otherwise prohibited by law.

(f) References. -- References in this section to the Secretary", "Undersecretary", "Deputy Secretary", "Deputy Assistant Secretary", "Office", "Assistant Secretary", and "Department" are references to positions and offices of the Department of the Treasury, unless otherwise specified.

(g) Special hiring authority.—

(1) In general.—The Secretary of the Treasury may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, candidates directly to positions in the competitive service, as defined in section 2102 of that title, in the OTFI.

(2) Primary responsibilities.—The primary responsibility of candidates appointed under paragraph (1) shall be to provide substantive support in support of the duties described in subparagraphs (A) through (G) of subsection (a)(4).

(h) Deployment of staff.—The Secretary of the Treasury may detail, without regard to the provisions of section 300.301 of title 5, Code of Federal Regulations, any employee in the OTFI to any position in the OTFI for which the Secretary has determined there is a need.

* * *

§ 316. Treasury Attaché Program

(a) In general.—There is established the Treasury Financial Attaché Program, under which the Secretary of the Treasury shall appoint employees of the Department of the Treasury as a Treasury Financial Attaché, who shall—

(1) further the work of the Department of the Treasury in developing and executing the financial and economic policy of the United States Government and the international fight against terrorism, money laundering, and other illicit finance;

(2) be co-located in a United States Embassy, a similar United States Government facility, or a foreign government facility, as the Secretary determines is appropriate;

(3) establish and maintain relationships with foreign counterparts, including employees of ministries of finance, central banks, international financial institutions, and other relevant official entities;

(4) conduct outreach to local and foreign financial institutions and other commercial actors;

(5) coordinate with representatives of the Department of Justice at United States Embassies who perform similar functions on behalf of the United States Government; and

(6) perform such other actions as the Secretary determines are appropriate.

(b) Number of attachés.—

(1) In general.—The number of Treasury Financial Attachés appointed under this section at any one time shall be not fewer than 6 more employees than the number of employees of the

Department of the Treasury serving as Treasury attachés on the date of enactment of this section.

(2) Additional posts.—The Secretary of the Treasury may establish additional posts subject to the availability of appropriations.

(c) Compensation.—

(1) In general.—Each Treasury Financial Attaché appointed under this section and located at a United States Embassy shall receive compensation, including allowances, at the higher of—

(A) the rate of compensation, including allowances, provided to a Foreign Service officer serving at the same embassy; and

(B) the rate of compensation, including allowances, the Treasury Financial Attaché would otherwise have received, absent the application of this subsection.

(2) Phase in.—The compensation described in paragraph (1) shall be phased in over 2 years.

* * *

§ 5311. Declaration of purpose

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

(1) require certain reports or records ~~where they have a high degree of usefulness~~that are highly useful in --

(A) criminal, tax, or regulatory investigations, risk assessments, or proceedings~~,~~; or ~~in the conduct of~~

(B) intelligence or counterintelligence activities, including analysis, to protect against ~~international~~ terrorism~~.~~;

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

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

(4) assess the money laundering, terrorism finance, tax evasion, and fraud risks to financial institutions, products, or services to—

(A) protect the financial system of the United States from criminal abuse; and

(B) safeguard the national security of the United States; and

(5) establish appropriate frameworks for information sharing among financial institutions, their agents and service providers, their regulatory authorities, associations of financial institutions, the Department of the Treasury, and law enforcement authorities to identify, stop, and apprehend money launderers and those who finance terrorists.

Note: Advisory Group on Reporting Requirements

Pub. L. 102–550, title XV, §1564, Oct. 28, 1992, 106 Stat. 4073 , provided that:

(a) Establishment. -- Not later than 90 days after the date of the enactment of this Act [Oct. 28, 1992], the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986 [26 U.S.C. 6050I].

(b) Purposes. -- The Advisory Group shall provide a means by which the Secretary --

"(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

"(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

"(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

"(c) Inapplicability of Federal Advisory Committee Act. -- The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a)."

''(d) Subcommittee on Innovation and Technology.—

''(1) Definitions.—In this subsection, the terms 'Bank Secrecy Act', 'State bank supervisor', and 'State credit union supervisor' have the meanings given the terms in section 6003 of the Anti-Money Laundering Act of 2020.

''(2) Establishment.—There shall be within the Bank Secrecy Act Advisory Group a subcommittee to be known as the 'Subcommittee on Innovation and Technology' to—

''(A) advise the Secretary of the Treasury regarding means by which the Department of the Treasury, FinCEN, the Federal functional regulators, State bank supervisors, and State credit union supervisors, as appropriate, can most effectively encourage and support technological innovation in the area of anti-money laundering and countering the financing of terrorism and proliferation; and

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

''(3) Membership.—

''(A) In general.—The subcommittee established under paragraph (1) shall consist of the representatives of the heads of the Federal functional regulators, including, as appropriate, the Bank Secrecy Act Innovation Officers as established in section 6208 of the Anti-Money

Laundering Act of 2020, a representative of State bank supervisors, a representative of State credit union supervisors, representatives of a cross-section of financial institutions subject to the Bank Secrecy Act, law enforcement, FinCEN, and any other representative as determined by the Secretary of the Treasury.

''(B) Requirements.—Each agency representative described in subparagraph (A) shall be an individual who the application of the Bank Secrecy Act.

''(4) Sunset.—

''(A) In general.—Except as provided in subparagraph (B), the Subcommittee on Innovation and Technology shall terminate on the date that is 5 years after the date of enactment of this subsection.

''(B) Exception.—The Secretary of the Treasury may renew the Subcommittee on Innovation for 1-year periods beginning on the date that is 5 years after the date of enactment of this subsection.''

''(e) Subcommittee on Information Security and Confidentiality.—

''(1) In general.—There shall be within the Bank Secrecy Act Advisory Group a subcommittee to be known as the Subcommittee on Information Security and Confidentiality (in this subsection referred to as the 'Subcommittee') to advise the Secretary of the Treasury regarding the information security and confidentiality implications of regulations, guidance, information sharing programs, and the examination for compliance with and enforcement of the provisions of the Bank Secrecy Act.

''(2) Membership.—

''(A) In general.—The Subcommittee shall consist of the representatives of the heads of the Federal functional regulators, including, as appropriate, the Bank Secrecy Act Information Security Officers as established in section 6303 of the Anti-Money Laundering Act of 2020, and representatives from financial institutions subject to the Bank Secrecy Act, law enforcement, FinCEN, and any other representatives as determined by the Secretary of the Treasury.

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

''(3) Sunset.—

''(A) In general.—Except as provided in subparagraph (B), the Subcommittee shall terminate on the date that is 5 years after the date of enactment of this subsection.

''(B) Exception.—The Secretary of the Treasury may renew the Subcommittee for 1-year periods beginning on the date that is 5 years after the date of enactment of this subsection.

''(f) Definitions.—In this section:

''(1) Bank secrecy act.—The term 'Bank Secrecy Act' has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

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

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

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

''(5) State credit union supervisor.—The term 'State credit union supervisor' means a State official described in section 107A(e) of the Federal Credit Union Act (12 U.S.C. 1757a(e)).''.

* * *

§ 5312. Definitions and application

(a) In this subchapter --

(1) "financial agency" means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, ~~or~~ a transaction in money, credit, securities~~,~~ or gold, or a service provided with respect to money, securities, futures, precious metals, stones and jewels, or value that substitutes for currency.

(2) "financial institution" means --

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) any credit union;

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange, or a business engaged in the exchange of currency, funds, or value that substitutes for currency or funds;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money or any other person who engages as a business in the transmission of currency, funds, or value that substitutes for currency, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(S) a telegraph company;

(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

(U) persons involved in real estate closings and settlements;

(V) the United States Postal Service;

(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which --

(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

(Y) a person engaged in the trade of antiquities, including an advisor, consultant, or any other person who engages as a business in the solicitation or the sale of antiquities, subject to regulations prescribed by the Secretary;

(Z) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(~~Z~~AA) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(3) "monetary instruments" means --

(A) United States coins and currency;

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; ~~and~~

(C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form; and

(D) as the Secretary shall provide by regulation, value that substitutes for any monetary instrument described in subparagraph (A), (B), or (C).

(4) Nonfinancial trade or business. -- The term "nonfinancial trade or business" means any trade or business other than a financial institution that is subject to the reporting requirements of section 5313 and regulations prescribed under such section.

(5) "person", in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(6) "United States" means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter --

(1) "domestic financial agency" and "domestic financial institution" apply to an action in the United States of a financial agency or institution.

(2) "foreign financial agency" and "foreign financial institution" apply to an action outside the United States of a financial agency or institution.

(c) Additional Definitions. -- For purposes of this subchapter, the following definitions shall apply:

(1) Certain institutions included in definition. -- The term "financial institution" (as defined in subsection (a)) includes the following:

(A) Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act.

* * *

§ 5318. Compliance, exemptions, and summons authority

(a) General Powers of Secretary. -- The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315) --

(1) except as provided in subsections (b)(2) and (h)(4), delegate duties and powers under this subchapter to an appropriate supervising agency and the United States Postal Service;

(2) require a class of domestic financial institutions or nonfinancial trades or businesses to maintain appropriate procedures, including the collection and reporting of certain information as the Secretary of the Treasury may prescribe by regulation, to ensure compliance with this subchapter and regulations prescribed under this subchapter or to guard against money laundering, the financing of terrorism, or other forms of illicit finance;

(3) examine any books, papers, records, or other data of domestic financial institutions or nonfinancial trades or businesses relevant to the recordkeeping or reporting requirements of this subchapter;

(4) summon a financial institution or nonfinancial trade or business, an officer or employee of a financial institution or nonfinancial trade or business (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b);

(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that --

(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

(B) there is adequate provision for the enforcement of such requirements;

(6) rely on examinations conducted by a State supervisory agency of a category of financial institution, if the Secretary determines that --

(A) the category of financial institution is required to comply with this subchapter and regulations prescribed under this subchapter; or

(B) the State supervisory agency examines the category of financial institution for compliance with this subchapter and regulations prescribed under this subchapter; and

(7) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption under this paragraph or paragraph (5) by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

(b) Limitations on Summons Power. --

(1) Scope of power. -- The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 [1] of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

(2) Authority to issue. -- A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

(c) Administrative aspects of summons. --

(1) Production at designated site. -- A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution or nonfinancial trade or business operates or conducts business in the United States.

(2) Fees and travel expenses. -- Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

(3) No liability for expenses. -- The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

(d) Service of summons. -- Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

(e) Contumacy or refusal. --

(1) Referral to Attorney General. -- In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

(2) Jurisdiction of court. -- The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which --

(A) the investigation which gave rise to the summons is being or has been carried on;

(B) the person summoned is an inhabitant; or

(C) the person summoned carries on business or may be found, to compel compliance with the summons.

(3) Court order. -- The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

(4) Failure to comply with order. -- Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Service of process. -- All process in any case under this subsection may be served in any judicial district in which such person may be found.

(f) Written and signed statement required. -- No person shall qualify for an exemption under subsection (a)(5) unless the relevant financial institution or nonfinancial trade or business prepares and maintains a statement which --

(1) describes in detail the reasons why such person is qualified for such exemption; and

(2) contains the signature of such person.

(g) Reporting of suspicious transactions. --

(1) In general. -- The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

(2) Notification prohibited. --

(A) In general. -- If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency --

(i) neither the financial institution, director, officer, employee, or agent of such institution (whether or not any such person is still employed by the institution), nor any other current or former director, officer, or employee of, or contractor for, the financial institution or other reporting person, may notify any person involved in the transaction that the transaction has been reported or otherwise reveal any information that would reveal that the transaction has been reported,; and

(ii) no current or former officer or employee of or contractor for the Federal Government or of or for any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported or otherwise reveal any information that would reveal that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

(B) Disclosures in certain employment references. --

(i) Rule of construction. -- Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies --

(I) in a written employment reference that is provided in accordance with section 18(w) of the Federal Deposit Insurance Act in response to a request from another financial institution; or

(II) in a written termination notice or employment reference that is provided in accordance with the rules of a self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, except that such written reference or notice may not disclose that such information was also included in any such report, or that such report was made.

(ii) Information not required. -- Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).

(3) Liability for disclosures. --

(A) In general. -- Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

(B) Rule of construction. -- Subparagraph (A) shall not be construed as creating --

(i) any inference that the term "person", as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.

(4) Single designee for reporting suspicious transactions. --

(A) In general. -- In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

(B) Duty of designee. -- The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

(C) Coordination with other reporting requirements. -- Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.

(5) Considerations in imposing reporting requirements.—

(A) Definitions.—In this paragraph, the terms 'Bank Secrecy Act', 'Federal functional regulator', 'State bank supervisor', and 'State credit union supervisor' have the meanings given the terms in section 6003 of the Anti- Money Laundering Act of 2020.

(B) Requirements.—In imposing any requirement to report any suspicious transaction under this subsection, the Secretary of the Treasury, in consultation with the Attorney General, appropriate representatives of State bank supervisors, State credit union supervisors, and the Federal functional regulators, shall consider items that include—

(i) the national priorities established by the Secretary;

(ii) the purposes described in section 5311; and

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

(C) Compliance program.—Reports filed under this subsection shall be guided by the compliance program of a covered financial institution with respect to the Bank Secrecy Act, including the risk assessment processes of the covered institution that should include a consideration of priorities established by the Secretary of the Treasury under section 5318.

(D) Streamlined data and real-time reporting.—

(i) Requirement to establish system.—In considering the means by or form in which the Secretary of the Treasury shall receive reporting pursuant to subparagraph (B)(iii), the Secretary of the Treasury, acting through the Director of the Financial Crimes Enforcement Network, and in consultation with appropriate representatives of the State bank supervisors, State credit union supervisors, and Federal functional regulators, shall—

(I) establish streamlined, including automated, processes to, as appropriate, permit the filing of noncomplex categories of reports that—

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

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

(II) subject to clause (ii)—

(aa) permit streamlined, including automated, reporting for the categories described in subclause (I); and

(bb) establish the conditions under which the reporting described in item (aa) is permitted; and

(III) establish additional systems and processes as necessary to allow for the reporting described in subclause (II)(aa).

(ii) Standards.—The Secretary of the Treasury—

(I) in carrying out clause (i), shall establish standards to ensure that streamlined reports relate to suspicious transactions relevant to potential violations of law (including regulations); and

(II) in establishing the standards under subclause (I), shall consider transactions, including structured transactions, designed to evade any regulation promulgated under this subchapter, certain fund and asset transfers with little or no apparent economic or business purpose, transactions without lawful purposes, and any other transaction that the Secretary determines to be appropriate.

(iii) Rule of construction.—Nothing in this subparagraph may be construed to preclude the Secretary of the Treasury from—

(I) requiring reporting as provided for in subparagraphs (B) and (C); or

(II) notifying Federal law enforcement with respect to any transaction that the Secretary has determined implicates a national priority established by the Secretary.

(6) Sharing of threat pattern and trend information.—

(A) Definitions.—In this paragraph—

(i) the terms 'Bank Secrecy Act' and 'Federal functional regulator' have the meanings given the terms in section 6003 of the Anti-Money Laundering Act of 2020; and

(ii) the term 'typology' means a technique to launder money or finance terrorism.

(B) Suspicious activity report activity review.— Not less frequently than semiannually, the Director of the Financial Crimes Enforcement Network shall publish threat pattern and trend information to provide meaningful information about the preparation, use, and value of reports filed under this subsection by financial institutions, as well as other reports filed by financial institutions under the Bank Secrecy Act.

(C) Inclusion of typologies.—In each publication published under subparagraph (B), the Director shall provide financial institutions and the Federal functional regulators with typologies, including data that can be adapted in algorithms if appropriate, relating to emerging money laundering and terrorist financing threat patterns and trends.

(7) Rules of construction.—Nothing in this subsection may be construed as precluding the Secretary of the Treasury from—

(A) requiring reporting as provided under subparagraphs (A) and (B) of paragraph (6); or

(B) notifying a Federal law enforcement agency with respect to any transaction that the Secretary has determined directly implicates a national priority established by the Secretary.

(8) Pilot program on sharing with foreign branches, subsidiaries, and affiliates.—

(A) In general.—

(i) Issuance of rules.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of the Treasury shall issue rules, in coordination with the Director of the Financial Crimes Enforcement Network, establishing the pilot program described in subparagraph (B).

(ii) Considerations.—In issuing the rules required under clause (i), the Secretary shall ensure that the sharing of information described in subparagraph (B)—

(I) is limited by the requirements of Federal and State law enforcement operations;

(II) takes into account potential concerns of the intelligence community; and

(III) is subject to appropriate standards and requirements regarding data security and the confidentiality of personally identifiable information.

(B) Pilot program described.—The pilot program described in this paragraph shall—

(i) permit a financial institution with a reporting obligation under this subsection to share information related to reports under this subsection, including that such a report has been filed, with the institution's foreign branches, subsidiaries, and affiliates for the purpose of combating illicit finance risks, notwithstanding any other provision of law except subparagraph (A) or (C);

(ii) permit the Secretary to consider, implement, and enforce provisions that would hold a foreign affiliate of a United States financial institution liable for the disclosure of information related to reports under this section;

(iii) terminate on the date that is 3 years after the date of enactment of this paragraph, except that the Secretary of the Treasury may extend the pilot program for not more than 2 years upon submitting to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that includes—

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

(II) after appropriate consultation by the Secretary with participants in the pilot program, an evaluation of the usefulness of the pilot program, including a detailed analysis of any illicit activity identified or prevented as a result of the program; and

(III) a detailed legislative proposal providing for a long-term extension of activities under the pilot program, measures to ensure data security, and confidentiality of personally identifiable information, including expected budgetary resources for those activities, if the Secretary of the Treasury determines that a long-term extension is appropriate.

(C) Prohibition involving certain jurisdictions.—

(i) In general.—In issuing the rules required under subparagraph (A), the Secretary of the Treasury may not permit a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in—

(I) the People's Republic of China;

(II) the Russian Federation; or

(III) a jurisdiction that—

(aa) is a state sponsor of terrorism;

(bb) is subject to sanctions imposed by the Federal Government; or

(cc) the Secretary has determined cannot reasonably protect the security and confidentiality of such information.

(ii) Exceptions—The Secretary is authorized to make exceptions, on a case-by-case basis, for a financial institution located in a jurisdiction listed in subclause (I) or (II) of clause (i), if the Secretary notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that such an exception is in the national security interest of the United States.

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

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

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

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

(9) Treatment of foreign jurisdiction-originated reports.—Information related to a report received by a financial institution from a foreign affiliate with respect to a suspicious transaction relevant to a possible violation of law or regulation shall be subject to the same confidentiality requirements provided under this subsection for a report of a suspicious transaction described in paragraph (1).

(10) No offshoring compliance.—No financial institution may establish or maintain any operation located outside of the United States the primary purpose of which is to ensure compliance with the Bank Secrecy Act as a result of the sharing granted under this subsection.

(11) Definitions.—In this subsection:

(A) Affiliate.—The term 'affiliate' means an entity that controls, is controlled by, or is under common control with another entity.

(B) Bank secrecy act; state bank supervisor; state credit union supervisor.—The terms 'Bank Secrecy Act', 'State bank supervisor', and 'State credit union supervisor' have the meanings given the terms in section 6003 of the Anti-Money Laundering Act of 2020.

(h) Anti-money laundering programs. --

(1) In general. -- In order to guard against money laundering and the financing of terrorism through financial institutions, each financial institution shall establish anti-money laundering and countering the financing of terrorism programs, including, at a minimum --

(A) the development of internal policies, procedures, and controls;

(B) the designation of a compliance officer;

(C) an ongoing employee training program; and

(D) an independent audit function to test programs.

(2) Regulations.-- (A) IN GENERAL.—The Secretary of the Treasury, after consultation with the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act), may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.

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

(i) Financial institutions are spending private compliance funds for a public and private benefit, including protecting the United States financial system from illicit finance risks.

(ii) The extension of financial services to the underbanked and the facilitation of financial transactions, including remittances, coming from the United States and abroad in ways that simultaneously prevent criminal persons from abusing formal or informal financial services networks are key policy goals of the United States.

(iii) Effective anti-money laundering and countering the financing of terrorism programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money and undertake other illicit activity through the financial system.

(iv) Anti-money laundering and countering the financing of terrorism programs described in paragraph (1) should be—

(I) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and

(II) risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.

(3) Concentration accounts. -- The Secretary may prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum --

(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.

(4) Priorities.--

(A) In general.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of the Treasury, in consultation with the Attorney General, Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), relevant State financial regulators, and relevant national security agencies, shall establish and make public priorities for anti-money laundering and countering the financing of terrorism policy.

(B) Updates.—Not less frequently than once every 4 years, the Secretary of the Treasury, in consultation with the Attorney General, Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), relevant State financial regulators, and relevant national security agencies, shall update the priorities established under subparagraph (A).

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

(D) Rulemaking.—Not later than 180 days after the date on which the Secretary of the Treasury establishes the priorities under subparagraph (A), the Secretary of the Treasury, acting through the Director of the Financial Crimes Enforcement Network and in consultation with the Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)) and relevant State financial regulators, shall, as appropriate, promulgate regulations to carry out this paragraph.

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

(5) Duty.—The duty to establish, maintain and enforce an anti-money laundering and countering the financing of terrorism program as required by this subsection shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, the Secretary of the Treasury and the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

(i) Due diligence for United States private banking and correspondent bank accounts involving foreign persons. --

(1) In general. -- Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts.

(2) Additional standards for certain correspondent accounts. --

(A) In general. -- Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating --

(i) under an offshore banking license; or

(ii) under a banking license issued by a foreign country that has been designated --

(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; or

(II) by the Secretary of the Treasury as warranting special measures due to money laundering concerns.

(B) Policies, procedures, and controls. -- The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps --

(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under subsection (g); and

(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

(3) Minimum standards for private banking accounts. -- If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps --

(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under subsection (g); and

(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

(4) Definitions. -- For purposes of this subsection, the following definitions shall apply:

(A) Offshore banking license. -- The term "offshore banking license" means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

(B) Private banking account. -- The term "private banking account" means an account (or any combination of accounts) that --

(i) requires a minimum aggregate deposits of funds or other assets of not less than $1,000,000;

(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

(iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

(j) Prohibition on United States correspondent accounts with foreign shell banks. --

(1) In general. -- A financial institution described in subparagraphs (A) through (G) of section 5312(a)(2) (in this subsection referred to as a "covered financial institution") shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

(2) Prevention of indirect service to foreign shell banks. -- A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary of the Treasury shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

(3) Exception. -- Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank --

(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

(4) Definitions. -- For purposes of this subsection --

(A) the term "affiliate" means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

(B) the term "physical presence" means a place of business that --

(i) is maintained by a foreign bank;

(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank --

(I) employs 1 or more individuals on a full-time basis; and

(II) maintains operating records related to its banking activities; and

(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.

(k) Bank records related to anti-money laundering programs.--

(1) Definitions. -- For purposes of this subsection, the following definitions shall apply:

(A) Appropriate Federal banking agency. -- The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) Covered Financial Institution.—The term 'covered financial institution' means an institution referred to in subsection (j)(1).

(C) Incorporated term. -- The term "correspondent account" has the same meaning as in section 5318A(e)(1)(B).

(2) 120-hour rule. -- Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

(3) Foreign bank records. --

(A) ~~Summons or subpoena of records~~SUBPOENA OF RECORDS.—

(i) IN GENERAL.—Notwithstanding subsection (b), the Secretary of the Treasury or the Attorney General may issue a ~~summons or~~ subpoena to any foreign bank that maintains a correspondent account in the United States and request any records ~~related~~relating to ~~such~~the correspondent account or any account at the foreign bank, including records maintained outside of the United States ~~relating to the deposit of funds into the foreign bank~~, that are the subject of—

(I) any investigation of a violation of a criminal law of the United States;

(II) any investigation of a violation of this subchapter;

(III) a civil forfeiture action; or an investigation pursuant to section 5318A.

~~(ii) Service of summons or subpoena~~

(ii) PRODUCTION OF RECORDS.—The foreign bank on which a subpoena described in clause (i) is served shall produce all requested records and authenticate all requested records with testimony in the manner described in—

(I) rule 902(12) of the Federal Rules of Evidence; or

(II) section 3505 of title 18.

(iii) ISSUANCE AND SERVICE OF SUBPOENA.—A ~~summons or~~ subpoena ~~referred to~~described in clause (i)—

(I) shall designate—

(aa) a return date; and

(bb) the judicial district in which the related investigation is proceeding; and

(II) may be served ~~on the foreign bank~~—

(aa) in person;

(bb) by mail or fax in the United States if the foreign bank has a representative in the United States~~,~~; or

(cc) if applicable, in a foreign country ~~pursuant to~~under any mutual legal assistance treaty, multilateral agreement, or other request for international legal or law enforcement assistance.

(iv) RELIEF FROM SUBPOENA.—

(I) IN GENERAL.—At any time before the return date of a subpoena described in clause (i), the foreign bank on which the subpoena is served may petition the district court of the United States for the judicial district in which the related investigation is proceeding, as designated in the subpoena, to modify or quash—

(aa) the subpoena; or

(bb) the prohibition against disclosure described in subparagraph (C).

(II) CONFLICT WITH FOREIGN SECRECY OR CONFIDENTIALITY.—An assertion that compliance with a subpoena described in clause (i) would conflict with a provision of foreign secrecy

or confidentiality law shall not be a sole basis for quashing or modifying the subpoena.

(B) ACCEPTANCE OF SERVICE.—

(i) MAINTAINING RECORDS IN THE UNITED STATES.—Any covered financial institution ~~which~~that maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying—

(I) the owners of ~~such~~record and the beneficial owners of the foreign bank; and

(II) the name and address of a person who—

(aa) resides in the United States; and

(bb) is authorized to accept service of legal process for records ~~regarding the correspondent account~~covered under this subsection.

(ii) LAW ENFORCEMENT REQUEST.—Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, ~~the~~a covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

~~(C) Termination of correspondent relationship.—~~

~~(i) Termination upon receipt of notice~~

(C) NONDISCLOSURE OF SUBPOENA.—

(i) IN GENERAL.—No officer, director, partner, employee, or shareholder of, or agent or attorney for, a foreign bank on which a subpoena is served under this paragraph shall, directly or indirectly, notify any account holder involved or any person named in the subpoena issued under subparagraph (A)(i) and served on the foreign bank about the existence or contents of the subpoena.

(ii) DAMAGES.—Upon application by the Attorney General for a violation of this subparagraph, a foreign bank on which a subpoena is served under this paragraph shall be liable to the United States Government for a civil penalty in an amount equal to—

(I) double the amount of the suspected criminal proceeds sent through the correspondent account of the foreign bank in the related investigation; or

(II) if no such proceeds can be identified, not more than $250,000.

(D) ENFORCEMENT.—

(i) IN GENERAL.—If a foreign bank fails to obey a subpoena issued under subparagraph (A)(i), the Attorney General may invoke the aid of the district court of the United States for the judicial district in which the investigation or related proceeding is occurring to compel compliance with the subpoena.

(ii) COURT ORDERS AND CONTEMPT OF COURT.— A court described in clause (i) may—

(I) issue an order requiring the foreign bank to appear before the Secretary of the Treasury or the Attorney General to produce—

(aa) certified records, in accordance with—

(AA) rule 902(12) of the Federal Rules of Evidence; or

(BB) section 3505 of title 18; or

(bb) testimony regarding the production of the certified records; and

(II) punish any failure to obey an order issued under subclause (I) as contempt of court.

(iii) SERVICE OF PROCESS.—All process in a case under this subparagraph shall be served on the foreign bank in the same manner as described in subparagraph (A)(iii).

(E) TERMINATION OF CORRESPONDENT RELATIONSHIP.—

(i) TERMINATION UPON RECEIPT OF NOTICE.—A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after ~~receipt of~~the date on which the covered financial institution receives written notice from the Secretary of the Treasury or the Attorney General ~~(in each case~~if, after consultation with the other~~)~~, the Secretary of the Treasury or the Attorney General, as applicable, determines that the foreign bank has failed—

(I) to comply with a ~~summons or~~ subpoena issued under subparagraph (A)(i); or

(II) to ~~initiate~~prevail in proceedings ~~in a~~before—

(aa) the appropriate district court of the United States ~~court contesting such summons or subpoena~~after challenging a subpoena described in subclause (I) under subparagraph (A)(iv)(I); or

(bb) a court of appeals of the United States after appealing a decision of a district court of the United States under item (aa).

(ii) LIMITATION ON LIABILITY.—A covered financial institution shall not be liable to any person in any court or arbitration proceeding for—

(I) terminating a correspondent relationship ~~in accordance with this subsection~~under this subparagraph; or

(II) complying with a nondisclosure order under subparagraph (C).

~~(iii) Failure to terminate relationship.—Failure~~

(iii) FAILURE TO TERMINATE RELATIONSHIP OR FAILURE TO COMPLY WITH A SUBPOENA.—

(I) FAILURE TO TERMINATE RELATIONSHIP.— A covered financial institution that fails to terminate a correspondent relationship ~~in accordance with this subsection shall render~~under clause (i) shall be liable for a civil penalty in an amount that is not more than $25,000 for each day that the covered financial institution ~~liable for a civil~~

penalty of up to $10,000 per day untilfails to terminate the correspondent relationship is so terminated.

(II) FAILURE TO COMPLY WITH A SUBPOENA.—

(aa) IN GENERAL.—Upon failure to comply with a subpoena under subparagraph (A)(i), a foreign bank may be liable for a civil penalty assessed by the issuing agency in an amount that is not more than $50,000 for each day that the foreign bank fails to comply with the terms of a subpoena.

(bb) ADDITIONAL PENALTIES.—Beginning after the date that is 60 days after a foreign bank fails to comply with a subpoena under subparagraph (A)(i), the Secretary of the Treasury or the Attorney General may seek additional penalties and compel compliance with the subpoena in the appropriate district court of the United States.

(cc) VENUE FOR RELIEF.—A foreign bank may seek review in the appropriate district court of the United States of any penalty assessed under this clause and the issuance of a subpoena under subparagraph (A)(i).

(F) ENFORCEMENT OF CIVIL PENALTIES.—Upon application by the United States, any funds held in the correspondent account of a foreign bank that is maintained in the United States with a covered financial institution may be seized by the United States to satisfy any civil penalties that are imposed—

(i) under subparagraph (C)(ii);

(ii) by a court for contempt under subparagraph (D); or

(iii) under subparagraph (E)(iii)(II).

(l) Identification and verification of accountholders. --

(1) In general. -- Subject to the requirements of this subsection, the Secretary of the Treasury shall prescribe regulations setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.

(2) Minimum requirements. -- The regulations shall, at a minimum, require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for --

(A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable;

(B) maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and

(C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.

(3) Factors to be considered. -- In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

(4) Certain financial institutions. -- In the case of any financial institution the business of which is engaging in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (including financial activities subject to the jurisdiction of the Commodity Futures Trading Commission), the regulations prescribed by the Secretary under paragraph (1) shall be prescribed jointly with each Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act, including the Commodity Futures Trading Commission) appropriate for such financial institution.

(5) Exemptions. -- The Secretary (and, in the case of any financial institution described in paragraph (4), any Federal agency described in such paragraph) may, by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe.

(6) Effective date. -- Final regulations prescribed under this subsection shall take effect before the end of the 1-year period beginning on the date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.

(m) Applicability of rules. -- Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.

(n) Reporting of certain cross-border transmittals of funds. --

(1) In general. -- Subject to paragraphs (3) and (4), the Secretary shall prescribe regulations requiring such financial institutions as the Secretary determines to be appropriate to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds, if the Secretary determines that reporting of such transmittals is reasonably necessary to conduct the efforts of the Secretary against money laundering and terrorist financing.

(2) Limitation on reporting requirements. -- Information required to be reported by the regulations prescribed under paragraph (1) shall not exceed the information required to be retained by the reporting financial institution pursuant to section 21 of the Federal Deposit Insurance Act and the regulations promulgated thereunder, unless --

(A) the Board of Governors of the Federal Reserve System and the Secretary jointly determine that a particular item or items of information are not currently required to be retained under such section or such regulations; and

(B) the Secretary determines, after consultation with the Board of Governors of the Federal Reserve System, that the reporting of such information is reasonably necessary to conduct the efforts of the Secretary to identify cross-border money laundering and terrorist financing.

(3) Form and manner of reports. -- In prescribing the regulations required under paragraph (1), the Secretary shall, subject to paragraph (2), determine the appropriate form, manner, content, and frequency of filing of the required reports.

(4) Feasibility report. --

(A) In general. -- Before prescribing the regulations required under paragraph (1), and as soon as is practicable after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that --

(i) identifies the information in cross-border electronic transmittals of funds that may be found in particular cases to be reasonably necessary to conduct the efforts of the Secretary to identify money laundering and terrorist financing, and outlines the criteria to be used by the Secretary to select the situations in which reporting under this subsection may be required;

(ii) outlines the appropriate form, manner, content, and frequency of filing of the reports that may be required under such regulations;

(iii) identifies the technology necessary for the Financial Crimes Enforcement Network to receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing; and

(iv) discusses the information security protections required by the exercise of the Secretary's authority under this subsection.

(B) Consultation. -- In reporting the feasibility report under subparagraph (A), the Secretary may consult with the Bank Secrecy Act Advisory Group established by the Secretary, and any other group considered by the Secretary to be relevant.

(5) Regulations. --

(A) In general. -- Subject to subparagraph (B), the regulations required by paragraph (1) shall be prescribed in final form by the Secretary, in consultation with the Board of Governors of the Federal Reserve System, before the end of the 3-year period beginning on the date of enactment of the National Intelligence Reform Act of 2004.

(B) Technological feasibility. -- No regulations shall be prescribed under this subsection before the Secretary certifies to the Congress that the Financial Crimes Enforcement Network has the technological systems in place to effectively and efficiently receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.

(o) Testing.—

(1) In general.—The Secretary of the Treasury, in consultation with the head of each agency to which the Secretary has delegated duties or powers under subsection (a), shall issue a rule to specify with respect to technology and related technology internal processes designed to

facilitate compliance with the requirements under this subchapter, the standards by which financial institutions are to test the technology and related technology internal processes.

(2) Standards.—The standards described in paragraph (1) may include—

(A) an emphasis on using innovative approaches such as machine learning or other enhanced data analytics processes;

(B) risk-based testing, oversight, and other risk management approaches of the regime, prior to and after implementation, to facilitate calibration of relevant systems and prudently evaluate and monitor the effectiveness of their implementation;

(C) specific criteria for when and how risk-based testing against existing processes should be considered to test and validate the effectiveness of relevant systems and situations and standards for when other risk management processes, including those developed by or through third party risk and compliance management systems, and oversight may be more appropriate;

(D) specific standards for a risk governance framework for financial institutions to provide oversight and to prudently evaluate and monitor systems and testing processes both pre- and post-implementation;

(E) requirements for appropriate data privacy and information security; and

(F) a requirement that the system configurations, including any applicable algorithms and any validation of those configurations used by the regime be disclosed to the Financial Crimes Enforcement Network and the appropriate Federal functional regulator upon request.

(3) Confidentiality of algorithms.—

(A) In general.—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this subsection or any other authority, discloses the algorithms of the financial institution to a government agency, the algorithms and any materials associated with the creation or adaption of such algorithms shall be considered confidential and not subject to public disclosure.

(B) Freedom of Information Act.—Section 552(a)(3) of title 5 (commonly known as the 'Freedom of Information Act') shall not apply to any request for algorithms described in subparagraph (A) and any materials associated with the creation or adaptation of the algorithms.

(4) Definition.—In this subsection, the term 'Federal functional regulator' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Federal Deposit Insurance Corporation;

(D) the National Credit Union Administration;

(E) the Securities and Exchange Commission; and

(F) the Commodity Futures Trading Commission.

(p) Sharing of compliance resources.—

(1) Sharing permitted.—In order to more efficiently comply with the requirements of this subchapter, 2 or more financial institutions may enter into collaborative arrangements, as described in the statement entitled 'Interagency Statement on Sharing Bank Secrecy Act Resources', published on October 3, 2018, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

(2) Outreach.—The Secretary of the Treasury and the appropriate supervising agencies shall carry out an outreach program to provide financial institutions with information, including best practices, with respect to the collaborative arrangements described in paragraph (1).

(q) Interagency coordination and consultation.—

(1) In general.—The Secretary of the Treasury shall, as appropriate, invite an appropriate State bank supervisor and an appropriate State credit union supervisor to participate in the interagency consultation and coordination with the Federal depository institution regulators regarding the development or modification of any rule or regulation carrying out this subchapter.

(2) Rules of construction.—Nothing in this subsection may be construed to—

(A) affect, modify, or limit the discretion of the Secretary of the Treasury with respect to the methods or forms of interagency consultation and coordination; or

(B) require the Secretary of the Treasury or a Federal depository institution regulator to coordinate or consult with an appropriate State bank supervisor or to invite such supervisor to participate in interagency consultation and coordination with respect to a matter, including a rule or regulation, specifically affecting only Federal depository institutions or Federal credit unions.

(3) Definitions.—In this subsection:

(A) Appropriate state bank supervisor.—The term 'appropriate State bank supervisor' means the Chairman or members of the State Liaison Committee of the Financial Institutions Examination Council.

(B) Appropriate state credit union supervisor.—The term 'appropriate State credit union supervisor' means the Chairman or members of the State Liaison Committee of the Financial Institutions Examination Council.

(C) Federal credit union.—The term 'Federal credit union' has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(D) Federal depository institution.—The term 'Federal depository institution' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(E) Federal depository institution regulators.—The term 'Federal depository institution regulator' means a member of the Financial Institutions Examination Council to which is delegated any authority of the Secretary under subsection (a)(1).

§ 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon request of the head of the agency or organization. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from search and disclosure under section 552 of title 5, and may not be disclosed under any State, local, tribal, or territorial freedom of information, open government, or similar law.

§5321. Civil penalties

(a)(1) A domestic financial institution or nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except sections 5314, 5315, and ~~5315~~5336 of this title or a regulation prescribed under sections 5314, 5315, and ~~5315~~5336), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction (if any) or $25,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than $10,000.

(4) Structured Transaction Violation.—

(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of section 5324.

(B) Maximum amount limitation.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other

monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

(C) Coordination with forfeiture provision.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States in connection with the transaction with respect to which such penalty is imposed.

(5) Foreign financial agency transaction violation.—

(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

(B) Amount of penalty.—

(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

(I) such violation was due to reasonable cause, and

(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

(I) $100,000, or

(II) 50 percent of the amount determined under subparagraph (D), and

(ii) subparagraph (B)(ii) shall not apply.

(D) Amount.—The amount determined under this subparagraph is—

(i) in the case of a violation involving a transaction, the amount of the transaction, or

(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.

(6) Negligence.—

(A) In general.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution or nonfinancial trade or business which negligently violates any provision of this subchapter (except section 5336) or any regulation prescribed under this subchapter (except section 5336).

(B) Pattern of negligent activity.—If any financial institution or nonfinancial trade or business engages in a pattern of negligent violations of any provision of this subchapter (except section 5336) or any regulation prescribed under this subchapter (except section 5336), the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution or nonfinancial trade or business.

(7) Penalties for international counter money laundering violations.—The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.

(b) Time Limitations for Assessments and Commencement of Civil Actions.—

(1) Assessments.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

(2) Civil actions.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

(A) the date the penalty was assessed; or

(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.

(c) The Secretary may remit any part of a forfeiture under subsection (c) or (d) [1] of section 5317 of this title or civil penalty under subsection (a)(2) of this section.

(d) Criminal Penalty Not Exclusive of Civil Penalty.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.

(e) Delegation of Assessment Authority to Banking Agencies.—

(1) In general.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

(2) Authority of agencies.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

(3) Terms and conditions.—

(A) In general.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

(B) Maximum dollar amount.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

(f) ADDITIONAL DAMAGES FOR REPEAT VIOLATORS.—

(1) IN GENERAL.—In addition to any other fines permitted under this section and section 5322, with respect to a person who has previously violated a provision of (or rule issued under) this subchapter, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or section 123 of Public Law 91–508 (12 U.S.C. 1953), the Secretary of the Treasury, if practicable, may impose an additional civil penalty against such person for each additional such violation in an amount that is not more than the greater of—

(A) if practicable to calculate, 3 times the profit gained or loss avoided by such person as a result of the violation; or

(B) 2 times the maximum penalty with respect to the violation.

(2) APPLICATION.—For purposes of determining whether a person has committed a previous violation under paragraph (1), the determination shall only include violations occurring after the date of enactment of the Anti-Money Laundering Act of 2020.

(g) CERTAIN VIOLATORS BARRED FROM SERVING ON BOARDS OF UNITED STATES FINANCIAL INSTITUTIONS.—

(1) DEFINITION.—In this subsection, the term ‘egregious violation’ means, with respect to an individual—

(A) a criminal violation—

(i) for which the individual is convicted; and

(ii) for which the maximum term of imprisonment is more than 1 year; and

(B) a civil violation in which—

(i) the individual willfully committed the violation; and

(ii) the violation facilitated money laundering or the financing of terrorism.

(2) BAR.—An individual found to have committed an egregious violation of the Bank Secrecy Act, as defined in section 6003 of the Anti-Money Laundering Act of 2020, or any rules issued under the Bank Secrecy Act, shall be barred from serving on the board of directors of a United States financial institution during the 10-year period that begins on the date on which the conviction or judgment, as applicable, with respect to the egregious violation is entered.

§5322. Criminal penalties

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 ~~or~~, 5324 or 5336 of this title or a regulation prescribed under section 5315 ~~or~~, 5324 or 5336), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, shall be fined not more than $250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 ~~or~~, 5324 or 5336 of this title or a regulation prescribed under section 5315 ~~or~~, 5324 or 5336), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 10 years, or both.

(c) For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000.

(e) A person convicted of violating a provision of (or rule issued under) the Bank Secrecy Act, as defined in section 6003 of the Anti-Money Laundering Act of 2020, shall—

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

(2) if the person is an individual who was a partner, director, officer, or employee of a financial institution at the time the violation occurred, repay to such financial institution any bonus paid to the individual during the calendar year in which the violation occurred or the calendar year after which the violation occurred. .

§5323. Rewards for informants

~~(a) The Secretary may pay a reward to an~~

(a) DEFINITIONS.—In this section:

(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term ‘covered judicial or administrative action’ means any judicial or administrative action brought by the Secretary of the Treasury (referred to in this section as the ‘Secretary’) or the Attorney General under this subchapter or subchapter III that results in monetary sanctions exceeding $1,000,000.

(2) MONETARY SANCTIONS.—The term ‘monetary sanctions’, when used with respect to any judicial or administrative action—

(A) means any monies, including penalties, disgorgement, and interest, ordered to be paid; and

(B) does not include—

(i) forfeiture;

(ii) restitution; or

(iii) any victim compensation payment.

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

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

(B) is not known to the Secretary or the Attorney General from any other source, unless the whistleblower is the original source of the information; and

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

(4) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Secretary or the Attorney General under this subchapter or subchapter III, means any judicial or administrative action brought by an entity described in any of subclauses (I) through (III) of subsection (g)(4)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (b) that led to the successful enforcement of the action by the Secretary or the Attorney General.

(5) WHISTLEBLOWER.—

(A) IN GENERAL.—The term 'whistleblower' means any individual who provides ~~original~~, or 2 or more individuals acting jointly who provide, information ~~which leads~~relating to ~~a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for~~ a violation of this ~~chapter~~subchapter or subchapter III to the employer of the individual or individuals, including as part of the job duties of the individual or individuals, or to the Secretary or the Attorney General.

(B) SPECIAL RULE.—Solely for the purposes of subsection (g)(1), the term 'whistleblower' includes any individual who takes, or 2 or more individuals acting jointly who take, an action described in subsection (g)(1)(A).

~~(b) The Secretary shall determine the amount of a reward~~

(b) AWARDS.—

(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under regulations prescribed by the Secretary, in consultation with the Attorney General and subject to subsection (c) and to amounts made available in advance by appropriation Acts, shall pay an award or awards to 1 or more

whistleblowers who voluntarily provided original information to the employer of the individual, the Secretary, or the Attorney General, as applicable, that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

(2) SOURCE OF AWARDS.—For the purposes of paying any award under this section~~. The~~, the Secretary may ~~not award more than 25 per centum~~, subject to amounts made available in advance by appropriation Acts, use monetary sanction amounts recovered based on the original information with respect to which the award is being paid.

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

(1) DETERMINATION OF AMOUNT OF AWARD.—

(A) DISCRETION.—The determination of the ~~net~~ amount of ~~the fine, penalty, or forfeiture collected or $150,000, whichever is less.~~

~~(c) An~~an award made under subsection (b) shall be in the discretion of the Secretary.

(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Secretary shall take into consideration—

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

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

(iii) the programmatic interest of the Department of the Treasury in deterring violations of this subchapter and subchapter III by making awards to whistleblowers who provide information that lead to the successful enforcement of either such subchapter; and

(iv) such additional relevant factors as the Secretary, in consultation with the Attorney General, may establish by rule or regulation.

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

(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Secretary or the Attorney General, as applicable, a member, officer, or employee ~~of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.~~

~~(d) There are authorized to be appropriated such sums~~—

(i) of—

(I) an appropriate regulatory or banking agency;

(II) the Department of the Treasury or the Department of Justice; or

(III) a law enforcement agency; and

(ii) acting in the normal course of the job duties of the whistleblower;

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

(C) to any whistleblower who fails to submit information to the Secretary or the Attorney General, as applicable, in such form as the Secretary, in consultation with the Attorney General, may, by rule, require.

(d) REPRESENTATION.—

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

(2) REQUIRED REPRESENTATION.—

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

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

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

(f) APPEALS.—

(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Secretary.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Any determination described in paragraph (1), except the determination of the amount of an award if the award was made in accordance with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Secretary.

(B) SCOPE OF REVIEW.—The court to which a determination by the Secretary is appealed under subparagraph (A) shall review the determination in accordance with section 706 of title 5.

(g) PROTECTION OF WHISTLEBLOWERS.—

(1) PROHIBITION AGAINST RETALIATION.—No employer may, directly or indirectly, discharge, demote, suspend, threaten, blacklist, harass, or in any other manner discriminate against a whistleblower in the terms and conditions of employment or post-employment because of any lawful act done by the whistleblower—

(A) in providing information in accordance with this section to—

(i) the Secretary or the Attorney General;

(ii) a Federal regulatory or law enforcement agency;

(iii) any Member of Congress or any committee of Congress; or

(iv) a person with supervisory authority over the whistleblower, or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct; or

(B) in initiating, testifying in, or assisting in any investigation or judicial or administrative action of the Department of the Treasury or the Department of Justice based upon or related to the information described in subparagraph (A); or

(C) in providing information regarding any conduct that the whistleblower reasonably believes constitutes a violation of any law, rule, or regulation subject to the jurisdiction of the Department of the Treasury, or a violation of section 1956, 1957, or 1960 of title 18 (or any rule or regulation under any such provision), to—

(i) a person with supervisory authority over the whistleblower at the employer of the whistleblower; or

(ii) another individual working for the employer described in clause (i) who the whistleblower reasonably believes has the authority to—

(I) investigate, discover, or terminate the misconduct; or

(II) take any other action to address the misconduct.

(2) ENFORCEMENT.—Any individual who alleges discharge or other discrimination, or is otherwise aggrieved by an employer, in violation of paragraph (1), may seek relief by—

(A) filing a complaint with the Secretary of Labor in accordance with the requirements of this subsection; or

(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint under subparagraph (A), and there is no showing that such a delay is due to the bad faith of the claimant, bringing an action against the employer at law or in equity in the appropriate district court of the United States,

which shall have jurisdiction over such an action without regard to the amount in controversy.

(3) PROCEDURE.—

(A) DEPARTMENT OF LABOR COMPLAINT.—

(i) IN GENERAL.—Except as provided in clause (ii) and subparagraph (C), the requirements under section 42121(b) of title 49, including the legal burdens of proof described in such section 42121(b), shall apply with respect to a complaint filed under paragraph (2)(A) by an individual against an employer.

(ii) EXCEPTION.—With respect to a complaint filed under paragraph (2)(A), notification required to be made under section 42121(b)(1) of title 49 shall be made to each person named in the complaint, including the employer.

(B) DISTRICT COURT COMPLAINT.—

(i) JURY TRIAL.—A party to an action brought under paragraph (2)(B) shall be entitled to trial by jury.

(ii) STATUTE OF LIMITATIONS.—

(I) IN GENERAL.—An action may not be brought under paragraph (2)(B)—

(aa) more than 6 years after the date on which the violation of paragraph (1) occurs; or

(bb) more than 3 years after the date on which when facts material to the right of action are known, or reasonably should have been known, by the employee alleging a violation of paragraph (1).

(II) REQUIRED ACTION WITHIN 10 YEARS.—Not-withstanding subclause (I), an action under paragraph (2)(B) may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

(C) RELIEF.—Relief for an individual prevailing with respect to a complaint filed under subparagraph (A) of paragraph (2) or an action brought under subparagraph (B) of that paragraph shall include—

(i) reinstatement with the same seniority status that the individual would have had, but for the conduct that is the subject of the complaint or action, as applicable;

(ii) 2 times the amount of back pay otherwise owed to the individual, with interest;

(iii) the payment of compensatory damages, which shall include compensation for litigation costs, expert witness fees, and reasonable attorneys' fees; and

(iv) any other appropriate remedy with respect to the conduct that is the subject of the complaint or action, as applicable.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the Secretary or the Attorney General, as applicable, and any officer or employee of the Department of the Treasury or the Department of Justice, shall not disclose any information, including information provided by a whistleblower to either such official, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the appropriate such official or any entity described in subparagraph (D).

(B) EXEMPTED STATUTE.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

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

(D) AVAILABILITY TO GOVERNMENT AGENCIES.—

(i) IN GENERAL.—Without the loss of its status as confidential in the hands of the Secretary or the Attorney General, as applicable, all information referred to in subparagraph (A) may, in the discretion of the appropriate such official, when determined by that official to be necessary to accomplish the purposes of this subchapter, be made available to—

(I) any appropriate Federal authority;

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

(III) any appropriate State regulatory authority; and

(IV) a foreign law enforcement authority. (ii) CONFIDENTIALITY.—

(I) IN GENERAL.—Each of the entities described in subclauses (I) through (III) of clause (i) shall maintain such information as confidential in accordance with the requirements established under subparagraph (A).

(II) FOREIGN AUTHORITIES.—Each entity described in clause (i)(IV) shall maintain such information in accordance with such assurances of confidentiality as determined by the Secretary or Attorney General, as applicable.

(5) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law or under any collective bargaining agreement.

(6) COORDINATION WITH OTHER PROVISIONS OF LAW.—This subsection shall not apply with respect to any employer that is subject to section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) or section 213 or 214 of the Federal Credit Union Act (12 U.S.C. 1790b, 1790c).

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

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

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

(i) RULEMAKING AUTHORITY.—The Secretary, in consultation with the Attorney General, shall have the authority to issue such rules and regulations as may be necessary or appropriate to ~~carry out~~implement the provisions of this section consistent with the purposes of this section.

(j) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, to the extent the agreement requires arbitration of a dispute arising under this section.

* * *

§5328. ~~Whistleblower protections~~Repealed

~~(a) Prohibition Against Discrimination.—No financial institution or nonfinancial trade or business may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or nonfinancial trade or business or any director, officer, or employee of the financial institution or nonfinancial trade or business.~~

~~(b) Enforcement.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.~~

~~(c) Remedies.—If the district court determines that a violation has occurred, the court may order the financial institution or nonfinancial trade or business which committed the violation to—~~

~~(1) reinstate the employee to the employee's former position;~~

~~(2) pay compensatory damages; or~~

~~(3) take other appropriate actions to remedy any past discrimination.~~

~~(d) Limitation. The protections of this section shall not apply to any employee who~~

~~(1) deliberately causes or participates in the alleged violation of law or regulation; or~~

~~(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.~~

~~(e) Coordination With Other Provisions of Law. This section shall not apply with respect to any financial institution or nonfinancial trade or business which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q)~~ [1] ~~of the Home Owners' Loan Act (as added by section 251(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991).~~

* * *

§ 5330. Registration of money transmitting businesses

(a) Registration with Secretary of the Treasury required. --

(1) In general. -- Any person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury not later than the end of the 180-day period beginning on the later of --

(A) the date of enactment of the Money Laundering Suppression Act of 1994; or

(B) the date on which the business is established.

(2) Form and manner of registration. -- Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

(3) Businesses remain subject to State law. -- This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

(4) False and incomplete information. -- The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

(b) Contents of Registration. -- The registration of a money transmitting business under subsection (a) shall include the following information:

(1) The name and location of the business.

(2) The name and address of each person who --

(A) owns or controls the business;

(B) is a director or officer of the business; or

(C) otherwise participates in the conduct of the affairs of the business.

(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary).

(5) Such other information as the Secretary of the Treasury may require.

(c) Agents of money transmitting businesses. --

(1) Maintenance of lists of agents of money transmitting businesses. -- Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall --

(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

(B) make the list and other information available on request to any appropriate law enforcement agency.

(2) Treatment of agent as money transmitting business. -- The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

(d) Definitions. -- For purposes of this section, the following definitions shall apply:

(1) Money transmitting business. -- The term "money transmitting business" means any business other than the United States Postal Service which --

(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments or any other person who engages as a business in the transmission of currency, funds, or value that substitutes for currency, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(B) is required to file reports under section 5313; and

(C) is not a depository institution (as defined in section 5313(g)).

(2) Money transmitting service. -- The term "money transmitting service" includes accepting currency ~~or~~, funds ~~denominated in the~~, or value that substitutes for currency ~~of any country~~ and transmitting the currency ~~or~~, funds, or ~~the~~ value ~~of the~~that substitutes for currency ~~or funds,~~ by any means, including through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

(e) Civil penalty for failure to comply with registration requirements.--

(1) In general. -- Any person who fails to comply with any requirement of this section or any regulation prescribed under this section shall be liable to the United States for a civil penalty of $5,000 for each such violation.

(2) Continuing violation. -- Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

(3) Assessments. -- Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.

* * *

§ 5333. Safe harbor with respect to keep open directives

(a) In general.—With respect to a customer account or customer transaction of a financial institution, if a Federal law enforcement agency, after notifying FinCEN of the intent to submit a written request to the financial institution that the financial institution keep that account or transaction open (referred to in this section as a 'keep open request'), or if a State, Tribal, or local law enforcement agency with the concurrence of FinCEN submits a keep open request—

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

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

(b) Rule of construction.—Nothing in this section may be construed—

(1) to prevent a Federal or State department or agency from verifying the validity of a keep open request submitted under subsection (a) with the law enforcement agency submitting that request;

(2) to relieve a financial institution from complying with any reporting requirements or any other provisions of this subchapter, including the reporting of suspicious transactions under section 5318(g); or

(3) to extend the safe harbor described in subsection (a) to any actions taken by the financial institution—

(A) before the date of the keep open request to maintain a customer account; or

(B) after the termination date stated in the keep open request.

(c) Letter termination date.—For the purposes of this section, any keep open request submitted under subsection (a) shall include a termination date after which that request shall no longer apply.

(d) Record keeping.—Any Federal, State, Tribal, or local law enforcement agency that submits to a financial institution a keep open request shall, not later than 2 business days after the date on which the request is submitted to the financial institution—

(1) submit to FinCEN a copy of the request; and

(2) alert FinCEN as to whether the financial institution has implemented the request.

(e) Guidance.—The Secretary of the Treasury, in consultation with the Attorney General and Federal, State, Tribal, and local law enforcement agencies, shall issue guidance on the required elements of a keep open request.

§ 5334. Training regarding anti-money laundering and countering the financing of terrorism

(a) TRAINING REQUIREMENT.—Each Federal examiner reviewing compliance with the Bank Secrecy Act, as defined in section 6003 of the Anti-Money Laundering Act of 2020, shall attend appropriate annual training, as determined by the Secretary of the Treasury, relating to anti-money laundering activities and countering the financing of terrorism, including with respect to—

"(1) potential risk profiles and warning signs that an examiner may encounter during examinations;

"(2) financial crime patterns and trends;

"(3) the high-level context for why anti-money laundering and countering the financing of terrorism programs are necessary for law enforcement agencies and other national security agencies and what risks those programs seek to mitigate; and

"(4) de-risking and the effect of de-risking on the provision of financial services.

(b) TRAINING MATERIALS AND STANDARDS.—The Secretary of the Treasury shall, in consultation with the Financial Institutions Examination Council, the Financial Crimes Enforcement Network, and Federal, State, Tribal, and local law enforcement agencies, establish appropriate training materials and standards for use in the training required under subsection (a). .

§ 5335. Prohibition on concealment of the source of assets in monetary transactions

(a) DEFINITION OF MONETARY TRANSACTION.—In this section, the term the term 'monetary transaction'—

(1) means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956(c)(5) of title 18) by, through, or to a financial institution (as defined in section 1956(c)(6) of title 18);

(2) includes any transaction that would be a financial transaction under section 1956(c)(4)(B) of title 18; and

(3) does not include any transaction necessary to preserve the right to representation of a person as guaranteed by the Sixth Amendment to the Constitution of the United States.

(b) PROHIBITION.—No person shall knowingly conceal, falsify, or misrepresent, or attempt to conceal, falsify, or misrepresent, from or to a financial institution, a material fact concerning the ownership or control of assets involved in a monetary transaction if—

(1) the person or entity who owns or controls the assets is a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, as set forth in this title or the regulations promulgated under this title; and

(2) the aggregate value of the assets involved in 1 or more monetary transactions is not less than $1,000,000.

(c) SOURCE OF FUNDS.—No person shall knowingly conceal, falsify, or misrepresent, or attempt to conceal, falsify, or misrepresent, from or to a financial institution, a material fact concerning the source of funds in a monetary transaction that—

(1) involves an entity found to be a primary money laundering concern under section 5318A or the regulations promulgated under this title; and

(2) violates the prohibitions or conditions prescribed under section 5318A(b)(5) or the regulations promulgated under this title.

(d) PENALTIES.—A person convicted of an offense under subsection (b) or (c), or a conspiracy to commit an offense under subsection (b) or (c), shall be imprisoned for not more than 10 years, fined not more than $1,000,000, or both.

(e) FORFEITURE.—

(1) CRIMINAL FORFEITURE.—

(A) IN GENERAL.—The court, in imposing a sentence under subsection (d), shall order that the defendant forfeit to the United States any property involved in the offense and any property traceable thereto.

(B) PROCEDURE.—The seizure, restraint, and forfeiture of property under this paragraph shall be governed by section 413 of the Controlled Substances Act (21 U.S.C. 853).

(2) CIVIL FORFEITURE.—

(A) IN GENERAL.—Any property involved in a violation of subsection (b) or (c), or a conspiracy to commit a violation of subsection (b) or (c), and any property traceable thereto may be seized and forfeited to the United States.

(B) PROCEDURE.—Seizures and forfeitures under this paragraph shall be governed by the provisions of chapter 46 of title 18 relating to civil forfeitures, except that such duties, under the customs laws described in section 981(d) of title 18, given to the Secretary of the Treasury shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General. .

§ 5336. Beneficial ownership information reporting requirements

(a) DEFINITIONS.—In this section:

(1) ACCEPTABLE IDENTIFICATION DOCUMENT.—The term 'acceptable identification document' means, with respect to an individual—

(A) a nonexpired passport issued by the United States;

(B) a nonexpired identification document issued by a State, local government, or Indian Tribe to the individual acting for the purpose of identification of that individual;

(C) a nonexpired driver's license issued by a State; or

(D) if the individual does not have a document described in subparagraph (A), (B), or (C), a nonexpired passport issued by a foreign government.

(2) APPLICANT.—The term 'applicant' means any individual who—

(A) files an application to form a corporation, limited liability company, or other similar entity under the laws of a State or Indian Tribe; or

(B) registers or files an application to register a corporation, limited liability company, or other similar entity formed under the laws of a foreign country to do business in the United States by filing a document with the secretary of state or similar office under the laws of a State or Indian Tribe.

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

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

(i) exercises substantial control over the entity; or

(ii) owns or controls not less than 25 percent of the ownership interests of the entity; and

(B) does not include—

(i) a minor child, as defined in the State in which the entity is formed, if the information of the parent or guardian of the minor child is reported in accordance with this section;

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

(iii) an individual acting solely as an employee of a corporation, limited liability company, or other similar entity and whose control over or economic benefits from such entity is derived solely from the employment status of the person;

(iv) an individual whose only interest in a corporation, limited liability company, or other similar entity is through a right of inheritance; or

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

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

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

(6) FINCEN IDENTIFIER.—The term 'FinCEN identifier' means the unique identifying number assigned by FinCEN to a person under this section.

(7) FOREIGN PERSON.—The term 'foreign person' means a person who is not a United States person, as defined in section 7701(a) of the Internal Revenue Code of 1986.

(8) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given the term 'Indian tribe' in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130).

(9) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—The term 'lawfully admitted for permanent residence' has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(10) POOLED INVESTMENT VEHICLE.—The term 'pooled investment vehicle' means—

(A) any investment company, as defined in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)); or

(B) any company that—

(i) would be an investment company under that section but for the exclusion provided from that definition by paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a–3(c)); and

(ii) is identified by its legal name by the applicable investment adviser in its Form ADV (or successor form) filed with the Securities and Exchange Commission.

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

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

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

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

(B) does not include—

(i) an issuer—

(I) of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or

(II) that is required to file supplementary and periodic information under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

(ii) an entity—

(I) established under the laws of the United States, an Indian Tribe, a State, or a political subdivision of a State, or under an interstate compact between 2 or more States; and

(II) that exercises governmental authority on behalf of the United States or any such Indian Tribe, State, or political subdivision;

(iii) a bank, as defined in—

(I) section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(II) section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)); or

(III) section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a));

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

(v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) or a savings and loan holding company (as defined in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)));

(vi) a money transmitting business registered with the Secretary of the Treasury under section 5330;

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

(viii) an exchange or clearing agency (as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 6 or 17A of that Act (15 U.S.C. 78f, 78q–1);

(ix) any other entity not described in clause (i), (vii), or (viii) that is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(x) an entity that—

(I) is an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) or an investment adviser (as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2)); and

(II) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

(xi) an investment adviser—

(I) described in section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(l)); and

(II) that has filed Item 10, Schedule A, and Schedule B of Part 1A of Form ADV, or any successor thereto, with the Securities and Exchange Commission;

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

(xiii) an entity that—

(I) is an insurance producer that is authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State; and

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

(xiv)(I) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(II) an entity that is—

(aa)(AA) a futures commission merchant, introducing broker, swap dealer, major swap participant, commodity pool operator, or commodity trading advisor (as those terms are defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(BB) a retail foreign exchange dealer, as described in section 2(c)(2)(B) of that Act (7 U.S.C. 2(c)(2)(B)); and

(bb) registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(xv) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212);

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

(xvii) a financial market utility designated by the Financial Stability Oversight Council under section 804 of the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5463);

(xviii) any pooled investment vehicle that is operated or advised by a person described in clause (iii), (iv), (vii), (x), or (xi);

(xix) any—

(I) organization that is described in section 501(c) of the Internal Revenue Code of 1986 (determined without regard to section 508(a) of such Code) and exempt from tax under section 501(a) of such Code, except that in the case of any such organization that loses an exemption from tax, such organization shall be considered to be continued to be described in this subclause for the 180-day period beginning on the date of the loss of such tax-exempt status;

(II) political organization (as defined in section 527(e)(1) of such Code) that is exempt from tax under section 527(a) of such Code; or

(III) trust described in paragraph (1) or (2) of section 4947(a) of such Code;

(xx) any corporation, limited liability company, or other similar entity that—

(I) operates exclusively to provide financial assistance to, or hold governance rights over, any entity described in clause (xix);

(II) is a United States person;

(III) is beneficially owned or controlled exclusively by 1 or more United States persons that are United States citizens or lawfully admitted for permanent residence; and

(IV) derives at least a majority of its funding or revenue from 1 or more United States persons that are United States citizens or lawfully admitted for permanent residence;

(xxi) any entity that—

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

(II) filed in the previous year Federal income tax returns in the United States demonstrating more than $5,000,000 in gross receipts or sales in the aggregate, including the receipts or sales of—

(aa) other entities owned by the entity; and

(bb) other entities through which the entity operates; and

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

(xxii) any corporation, limited liability company, or other similar entity of which the ownership interests are owned or controlled, directly or indirectly, by 1 or more entities described in clause (i), (ii), (iii), (iv), (v), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii) (xix), or (xxi);

(xxiii) any corporation, limited liability company, or other similar entity—

(I) in existence for over 1 year;

(II) that is not engaged in active business;

(III) that is not owned, directly or indirectly, by a foreign person;

(IV) that has not, in the preceding 12-month period, experienced a change in ownership or sent or received funds in an amount greater than $1,000 (including all funds sent to or received from any source through a financial account or accounts in which the entity, or an affiliate of the entity, maintains an interest); and

(V) that does not otherwise hold any kind or type of assets, including an ownership interest in any corporation, limited liability company, or other similar entity;

(xxiv) any entity or class of entities that the Secretary of the Treasury, with the written concurrence of the Attorney General and the Secretary of Homeland Security, has, by regulation, determined should be exempt from the requirements of subsection (b) because requiring beneficial ownership information from the entity or class of entities—

(I) would not serve the public interest; and

(II) would not be highly useful in national security, intelligence, and law enforcement agency efforts to detect, prevent, or prosecute money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or other crimes.

(12) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other commonwealth, territory, or possession of the United States.

(13) UNIQUE IDENTIFYING NUMBER.—The term 'unique identifying number' means, with respect to an individual or an entity with a sole member, the unique identifying number from an acceptable identification document.

(14) UNITED STATES PERSON.—The term 'United States person' has the meaning given the term in section 7701(a) of the Internal Revenue Code of 1986.

(b) BENEFICIAL OWNERSHIP INFORMATION REPORTING.—

(1) REPORTING.—

(A) IN GENERAL.—In accordance with regulations prescribed by the Secretary of the Treasury, each reporting company shall submit to FinCEN a report that contains the information described in paragraph (2).

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

(C) REPORTING AT TIME OF FORMATION OR REGISTRATION.—In accordance with regulations prescribed by the Secretary of the Treasury, any reporting company that has been formed or registered after the effective date of the regulations promulgated under this subsection shall, at the time of formation or registration, submit to FinCEN a report that contains the information described in paragraph (2).

(D) UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERSHIP.—In accordance with regulations prescribed by the Secretary of the Treasury, a reporting company shall, in a timely manner, and not later than 1 year after the date on which there is a change with respect to any information described in paragraph (2), submit to FinCEN a report that updates the information relating to the change.

(E) TREASURY REVIEW OF UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERSHIP.—The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of Homeland Security, shall conduct a review to evaluate—

(i) the necessity of a requirement for corporations, limited liability companies, or other similar entities to update the report on beneficial ownership information in paragraph (2), related to a change in ownership, within a shorter period of time than required under subparagraph (D), taking into account the updating requirements under subparagraph (D) and the information contained in the reports;

(ii) the benefit to law enforcement and national security officials that might be derived from, and the burden that a requirement to update the list of beneficial owners within a shorter period of time after a change in the list of beneficial owners would impose on corporations, limited liability companies, or other similar entities; and

(iii) not later than 2 years after the date of enactment of this section, incorporate into the regulations, as appropriate, any changes necessary to implement the findings and determinations based on the review required under this subparagraph.

(F) REGULATION REQUIREMENTS.—In promulgating the regulations required under subparagraphs (A) through (D), the Secretary of the Treasury shall, to the greatest extent practicable—

(i) establish partnerships with State, local, and Tribal governmental agencies;

(ii) collect information described in paragraph (2) through existing Federal, State, and local processes and procedures;

(iii) minimize burdens on reporting companies associated with the collection of the information described in paragraph (2), in light of the private compliance costs placed on legitimate businesses, including by identifying any steps taken to mitigate the costs relating to compliance with the collection of information; and

(iv) collect information described in paragraph (2) in a form and manner that ensures the information is highly useful in—

(I) facilitating important national security, intelligence, and law enforcement activities; and

(II) confirming beneficial ownership information provided to financial institutions to facilitate the compliance of the financial institutions with anti-money laundering, countering the financing of terrorism, and customer due diligence requirements under applicable law.

(G) REGULATORY SIMPLIFICATION.—To simplify compliance with this section for reporting companies and financial institutions, the Secretary of the Treasury shall ensure that the regulations prescribed by the Secretary under this subsection are added to part 1010 of title 31, Code of Federal Regulations, or any successor thereto.

(2) REQUIRED INFORMATION.—

(A) IN GENERAL.—In accordance with regulations prescribed by the Secretary of the Treasury, a report delivered under paragraph (1) shall, except as provided in subparagraph (B), identify each beneficial owner of the applicable reporting company and each applicant with respect to that reporting company by—

(i) full legal name;

(ii) date of birth;

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

(iv)(I) unique identifying number from an acceptable identification document; or

(II) FinCEN identifier in accordance with requirements in paragraph (3).

(B) REPORTING REQUIREMENT FOR EXEMPT ENTITIES HAVING AN OWNERSHIP INTEREST.—If an exempt entity described in subsection (a)(11)(B) has or will have a direct or indirect ownership interest in a reporting company, the reporting company or the applicant—

(i) shall, with respect to the exempt entity, only list the name of the exempt entity; and

(ii) shall not be required to report the information with respect to the exempt entity otherwise required under subparagraph (A).

(C) REPORTING REQUIREMENT FOR CERTAIN POOLED INVESTMENT VEHICLES.—Any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xviii) and is formed under the laws of a foreign country shall file with FinCEN a written certification that provides identification information of an individual that exercises substantial control over the pooled investment vehicle in the same manner as required under this subsection.

(D) REPORTING REQUIREMENT FOR EXEMPT SUBSIDIARIES.—In accordance with the regulations promulgated by the Secretary, any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xxii), shall, at the time such entity no longer meets the criteria described in subsection (a)(11)(B)(xxii), submit to FinCEN a report containing the information required under subparagraph (A).

(E) REPORTING REQUIREMENT FOR EXEMPT GRAND-FATHERED ENTITIES.—In accordance with the regulations promulgated by the Secretary, any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xxiii), shall, at the time such entity no longer meets the criteria described in subsection (a)(11)(B)(xxiii), submit to FinCEN a report containing the information required under subparagraph (A).

(3) FINCEN IDENTIFIER.—

(A) ISSUANCE OF FINCEN IDENTIFIER.—

(i) IN GENERAL.—Upon request by an individual who has provided FinCEN with the information described in paragraph (2)(A) pertaining to the individual, or by an entity that has reported its beneficial ownership information to FinCEN in accordance with this section, FinCEN shall issue a FinCEN identifier to such individual or entity.

(ii) UPDATING OF INFORMATION.—An individual or entity with a FinCEN identifier shall submit filings with FinCEN pursuant to paragraph (1) updating any information described in paragraph (2) in a timely manner consistent with paragraph (1)(D).

(iii) EXCLUSIVE IDENTIFIER.—FinCEN shall not issue more than 1 FinCEN identifier to the same individual or to the same entity (including any successor entity).

(B) USE OF FINCEN IDENTIFIER FOR INDIVIDUALS.— Any person required to report the information described in paragraph (2) with respect to an individual may instead report the FinCEN identifier of the individual.

(C) USE OF FINCEN IDENTIFIER FOR ENTITIES.—If an individual is or may be a beneficial owner of a reporting company by an interest held by the individual in an entity that, directly or indirectly, holds an interest in the reporting company, the reporting company may report the FinCEN identifier of the entity in lieu of providing the information required by paragraph (2)(A) with respect to the individual.

(4) REGULATIONS.—The Secretary of the Treasury shall—

(A) by regulation prescribe procedures and standards governing any report under paragraph (2) and any FinCEN identifier under paragraph (3); and

(B) in promulgating the regulations under subparagraph (A) to the extent practicable, consistent with the purposes of this section—

(i) minimize burdens on reporting companies associated with the collection of beneficial ownership information, including by eliminating duplicative requirements; and

(ii) ensure the beneficial ownership information reported to FinCEN is accurate, complete, and highly useful.

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

(6) REPORT.—Not later than 1 year after the effective date described in paragraph (5), and annually thereafter for 2 years, the Secretary of the Treasury shall submit to Congress a report describing the procedures and standards prescribed to carry out paragraph (2), which shall include an assessment of—

(A) the effectiveness of those procedures and standards in minimizing reporting burdens (including through the elimination of duplicative requirements) and strengthening the accuracy of reports submitted under paragraph (2); and

(B) any alternative procedures and standards prescribed to carry out paragraph (2).

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

(1) RETENTION OF INFORMATION.—Beneficial ownership information required under subsection (b) relating to each reporting company shall be maintained by FinCEN for not fewer than 5 years after the date on which the reporting company terminates.

(2) DISCLOSURE.—

(A) PROHIBITION.—Except as authorized by this subsection and the protocols promulgated under this subsection, beneficial ownership information reported under this section shall be confidential and may not be disclosed by—

(i) an officer or employee of the United States;

(ii) an officer or employee of any State, local, or Tribal agency; or

(iii) an officer or employee of any financial institution or regulatory agency receiving information under this subsection.

(B) SCOPE OF DISCLOSURE BY FINCEN.—FinCEN may disclose beneficial ownership information reported pursuant to this section only upon receipt of—

(i) a request, through appropriate protocols—

(I) from a Federal agency engaged in national security, intelligence, or law enforcement activity, for use in furtherance of such activity; or

(II) from a State, local, or Tribal law enforcement agency, if a court of competent jurisdiction, including any officer of such a court, has authorized the law enforcement agency to seek the information in a criminal or civil investigation;

(ii) a request from a Federal agency on behalf of a law enforcement agency, prosecutor, or judge of another country, including a foreign central authority or competent authority (or like designation), under an international treaty, agreement, convention, or official request made by law enforcement, judicial, or prosecutorial authorities in trusted foreign countries when no treaty, agreement, or convention is available—

(I) issued in response to a request for assistance in an investigation or prosecution by such foreign country; and

(II) that—

(aa) requires compliance with the disclosure and use provisions of the treaty, agreement, or convention, publicly disclosing any beneficial ownership information received; or

(bb) limits the use of the information for any purpose other than the authorized investigation or national security or intelligence activity;

(iii) a request made by a financial institution subject to customer due diligence requirements, with the consent of the reporting company, to facilitate the compliance of the financial institution with customer due diligence requirements under applicable law; or

(iv) a request made by a Federal functional regulator or other appropriate regulatory agency consistent with the requirements of subparagraph (C).

(C) FORM AND MANNER OF DISCLOSURE TO FINANCIAL INSTITUTIONS AND REGULATORY AGENCIES.—The Secretary of the Treasury shall, by regulation, prescribe the form and manner in which information shall be provided to a financial institution under subparagraph (B)(iii), which regulation shall include that the information shall also be available to a Federal functional regulator or other appropriate regulatory agency, as determined by the Secretary, if the agency—

(i) is authorized by law to assess, supervise, enforce, or otherwise determine the compliance of the financial institution with the requirements described in that subparagraph;

(ii) uses the information solely for the purpose of conducting the assessment, supervision, or authorized investigation or activity described in clause (i); and

(iii) enters into an agreement with the Secretary providing for appropriate protocols governing the safekeeping of the information.

(3) APPROPRIATE PROTOCOLS.—The Secretary of the Treasury shall establish by regulation protocols described in paragraph (2)(A) that—

(A) protect the security and confidentiality of any beneficial ownership information provided directly by the Secretary;

(B) require the head of any requesting agency, on a non-delegable basis, to approve the standards and procedures utilized by the requesting agency and certify to the Secretary semi-annually that such standards and procedures are in compliance with the requirements of this paragraph;

(C) require the requesting agency to establish and maintain, to the satisfaction of the Secretary, a secure system in which such beneficial ownership information provided directly by the Secretary shall be stored;

(D) require the requesting agency to furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, that describes the procedures established and utilized by such agency to ensure the confidentiality of the beneficial ownership information provided directly by the Secretary;

(E) require a written certification for each authorized investigation or other activity described in paragraph (2) from the head of an agency described in paragraph (2)(B)(i)(I), or their designees, that—

(i) states that applicable requirements have been met, in such form and manner as the Secretary may prescribe; and

(ii) at a minimum, sets forth the specific reason or reasons why the beneficial ownership information is relevant to an authorized investigation or other activity described in paragraph (2);

(F) require the requesting agency to limit, to the greatest extent practicable, the scope of information sought, consistent with the purposes for seeking beneficial ownership information;

(G) restrict, to the satisfaction of the Secretary, access to beneficial ownership information to whom disclosure may be made under the provisions of this section to only users at the requesting agency—

(i) who are directly engaged in the authorized investigation or activity described in paragraph (2);

(ii) whose duties or responsibilities require such access;

(iii) who—

(I) have undergone appropriate training; or

(II) use staff to access the database who have undergone appropriate training;

(iv) who use appropriate identity verification mechanisms to obtain access to the information; and

(v) who are authorized by agreement with the Secretary to access the information;

(H) require the requesting agency to establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to an auditable trail of each request for beneficial ownership information submitted to the Secretary by the agency, including the reason for the request, the name of the individual who made the request, the date of the request, any disclosure of beneficial ownership information made by or to the agency, and any other information the Secretary of the Treasury determines is appropriate;

(I) require that the requesting agency receiving beneficial ownership information from the Secretary conduct an annual audit to verify that the beneficial ownership information received from the Secretary has been accessed and used appropriately, and in a manner consistent with this paragraph and provide the results of that audit to the Secretary upon request;

(J) require the Secretary to conduct an annual audit of the adherence of the agencies to the protocols established under this paragraph to ensure that agencies are requesting and using beneficial ownership information appropriately; and

(K) provide such other safeguards which the Secretary determines (and which the Secretary prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the beneficial ownership information.

(4) VIOLATION OF PROTOCOLS.—Any employee or officer of a requesting agency under paragraph (2)(B) that violates the protocols described in paragraph (3), including unauthorized disclosure or use, shall be subject to criminal and civil penalties under subsection (h)(3)(B).

(5) DEPARTMENT OF THE TREASURY ACCESS.—

(A) IN GENERAL.—Beneficial ownership information shall be accessible for inspection or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure subject to procedures and safeguards prescribed by the Secretary of the Treasury.

(B) TAX ADMINISTRATION PURPOSES.—Officers and employees of the Department of the Treasury may obtain access to beneficial ownership information for tax administration purposes in accordance with this subsection.

(6) REJECTION OF REQUEST.—The Secretary of the Treasury—

(A) shall reject a request not submitted in the form and manner prescribed by the Secretary under paragraph (2)(C); and

(B) may decline to provide information requested under this subsection upon finding that—

(i) the requesting agency has failed to meet any other requirement of this subsection;

(ii) the information is being requested for an unlawful purpose; or

(iii) other good cause exists to deny the request.

(7) SUSPENSION.—The Secretary of the Treasury may suspend or debar a requesting agency from access for any of the grounds set forth in paragraph (6), including for repeated or serious violations of any requirement under paragraph (2).

(8) SECURITY PROTECTIONS.—The Secretary of the Treasury shall maintain information security protections, including encryption, for information reported to FinCEN under subsection (b) and ensure that the protections—

(A) are consistent with standards and guidelines developed under subchapter II of chapter 35 of title 44; and

(B) incorporate Federal information system security controls for high-impact systems, excluding national security systems, consistent with applicable law to prevent the loss of confidentiality, integrity, or availability of information that may have a severe or catastrophic adverse effect.

(9) REPORT BY THE SECRETARY.—Not later than 1 year

after the effective date of the regulations prescribed under this subsection, and annually thereafter for 5 years, the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report, which—

(A) may include a classified annex; and

(B) shall, with respect to each request submitted under paragraph (2)(B)(i)(II) during the period covered by the report, and consistent with protocols established by the Secretary that are necessary to protect law enforcement sensitive, tax-related, or classified information, include—

(i) the date on which the request was submitted;

(ii) the source of the request;

(iii) whether the request was accepted or rejected or is pending; and

(iv) a general description of the basis for rejecting the such request, if applicable.

(10) AUDIT BY THE COMPTROLLER GENERAL.—Not later than 1 year after the effective date of the regulations prescribed under this subsection, and annually thereafter for 6 years, the Comptroller General of the United States shall—

(A) audit the procedures and safeguards established by the Secretary of the Treasury under those regulations, including duties for verification of requesting agencies systems and adherence to the protocols established under this subsection, to determine whether such safeguards and procedures meet the requirements of this subsection and

that the Department of the Treasury is using beneficial ownership information appropriately in a manner consistent with this subsection; and

(B) submit to the Secretary of the Treasury, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report that contains the findings and determinations with respect to any audit conducted under this paragraph.

(11) DEPARTMENT OF THE TREASURY TESTIMONY.—

(A) IN GENERAL.—Not later than March 31 of each year for 5 years beginning in 2022, the Director shall be made available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, or an appropriate subcommittee thereof, regarding FinCEN issues, including, specifically, issues relating to—

(i) anticipated plans, goals, and resources necessary for operations of FinCEN in implementing the requirements of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(ii) the adequacy of appropriations for FinCEN in the current and the previous fiscal year to—

(I) ensure that the requirements and obligations imposed upon FinCEN by the Anti-Money Laundering Act of 2020 and the amendments made by that Act are completed as efficiently, effectively, and expeditiously as possible; and

(II) provide for robust and effective implementation and enforcement of the provisions of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(iii) strengthen FinCEN management efforts, as necessary and as identified by the Director, to meet the requirements of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(iv) provide for the necessary public outreach to ensure the broad dissemination of information regarding any new program requirements provided for in the Anti-Money Laundering Act of 2020 and the amendments made by that Act, including—

(I) educating the business community on the goals and operations of the new beneficial ownership database; and

(II) disseminating to the governments of countries that are allies or partners of the United States information on best practices developed by FinCEN related to beneficial ownership information retention and use;

(v) any policy recommendations that could facilitate and improve communication and coordination between the private sector, FinCEN, and the Federal, State, and local agencies and entities involved in implementing innovative approaches to meet their obligations under the Anti-Money Laundering Act of 2020 and the amendments made by that Act, the Bank Secrecy Act (as defined in section 6003 of the Anti-Money Laundering Act of 2020), and other anti-money laundering compliance laws; and

(vi) any other matter that the Director determines is appropriate.

(B) TESTIMONY CLASSIFICATION.—The testimony required under subparagraph (A)—

(i) shall be submitted in unclassified form; and

(ii) may include a classified portion. (d) AGENCY COORDINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, to the greatest extent practicable, update the information described in subsection (b) by working collaboratively with other relevant Federal, State, and Tribal agencies.

(2) INFORMATION FROM RELEVANT FEDERAL, STATE, AND TRIBAL AGENCIES.—Relevant Federal, State, and Tribal agencies, as determined by the Secretary of the Treasury, shall, to the extent practicable, and consistent with applicable legal protections, cooperate with and provide information requested by FinCEN for purposes of maintaining an accurate, complete, and highly useful database for beneficial ownership information.

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

(e) NOTIFICATION OF FEDERAL OBLIGATIONS.—

(1) FEDERAL.—The Secretary of the Treasury shall take reasonable steps to provide notice to persons of their obligations to report beneficial ownership information under this section, including by causing appropriate informational materials describing such obligations to be included in 1 or more forms or other informational materials regularly distributed by the Internal Revenue Service and FinCEN.

(2) STATES AND INDIAN TRIBES.—

(A) IN GENERAL.—As a condition of the funds made available under this section, each State and Indian Tribe shall, not later than 2 years after the effective date of the regulations promulgated under subsection (b)(4), take the following actions:

(i) The secretary of a State or a similar office in each State or Indian Tribe responsible for the formation or registration of entities created by the filing of a public document with the office under the law of the State or Indian Tribe shall periodically, including at the time of any initial formation or registration of an entity, assessment of an annual fee, or renewal of any license to do business in the United States and in connection with State or Indian Tribe corporate tax assessments or renewals—

(I) notify filers of their requirements as reporting companies under this section, including the requirements to file and update reports under paragraphs (1) and (2) of subsection (b); and

(II) provide the filers with a copy of the reporting company form created by the Secretary of the Treasury under this subsection or an inter-net link to that form.

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

(B) NOTIFICATION FROM THE DEPARTMENT OF THE TREASURY.—A notification under clause (i) or (ii) of subparagraph (A) shall explicitly state that the notification is on behalf of the Department of the Treasury for the purpose of preventing money laundering, the financing of terrorism, proliferation financing, serious tax fraud, and other financial crime by requiring nonpublic registration of business entities formed or registered to do business in the United States.

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

(g) REGULATIONS.—In promulgating regulations carrying out this section, the Director shall reach out to members of the small business community and other appropriate parties to ensure efficiency and effectiveness of the process for the entities subject to the requirements of this section.

(h) PENALTIES.—

(1) REPORTING VIOLATIONS.—It shall be unlawful for any person to—

(A) willfully provide, or attempt to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph or document, to FinCEN in accordance with subsection (b); or

(B) willfully fail to report complete or updated beneficial ownership information to FinCEN in accordance with subsection (b).

(2) UNAUTHORIZED DISCLOSURE OR USE.—Except as authorized by this section, it shall be unlawful for any person to knowingly disclose or knowingly use the beneficial ownership information obtained by the person through—

(A) a report submitted to FinCEN under subsection (b); or

(B) a disclosure made by FinCEN under subsection (c).

(3) CRIMINAL AND CIVIL PENALTIES.—

(A) REPORTING VIOLATIONS.—Any person that violates subparagraph (A) or (B) of paragraph (1)—

(i) shall be liable to the United States for a civil penalty of not more than $500 for each day that the violation continues or has not been remedied; and

(ii) may be fined not more than $10,000, imprisoned for not more than 2 years, or both.

(B) UNAUTHORIZED DISCLOSURE OR USE VIOLATIONS.— Any person that violates paragraph (2)—

(i) shall be liable to the United States for a civil penalty of not more than $500 for each day that the violation continues or has not been remedied; and

(ii)(I) shall be fined not more than $250,000, or imprisoned for not more than 5 years, or both; or

(II) while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 10 years, or both.

(C) SAFE HARBOR.—

(i) SAFE HARBOR.—

(I) IN GENERAL.—Except as provided in sub-clause (II), a person shall not be subject to civil or criminal penalty under subparagraph (A) if the person—

(aa) has reason to believe that any report submitted by the person in accordance with subsection (b) contains inaccurate information; and

(bb) in accordance with regulations issued by the Secretary, voluntarily and promptly, and in no case later than 90 days after the date on which the person submitted the report, submits a report containing corrected information.

(II) EXCEPTIONS.—A person shall not be exempt from penalty under clause (i) if, at the time the person submits the report required by subsection (b), the person—

(aa) acts for the purpose of evading the reporting requirements under subsection (b); and

(bb) has actual knowledge that any information contained in the report is inaccurate.

(ii) ASSISTANCE.—FinCEN shall provide assistance to any person seeking to submit a corrected report in accordance with clause (i)(I).

(4) USER COMPLAINT PROCESS.—

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

regarding the beneficial ownership information notification and collection process or regarding the accuracy, completeness, or timeliness of such information.

(B) REPORT.—The Inspector General of the Department of the Treasury shall submit to Congress a periodic report that—

(i) summarizes external comments or complaints and related investigations conducted by the Inspector General related to the collection of beneficial ownership information; and

(ii) includes recommendations, in coordination with FinCEN, to improve the form and manner of the notification, collection and updating processes of the beneficial ownership information reporting requirements to ensure the beneficial ownership information reported to FinCEN is accurate, complete, and highly useful.

(5) TREASURY OFFICE OF INSPECTOR GENERAL INVESTIGA-TION IN THE EVENT OF A CYBERSECURITY BREACH.—

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

(B) REPORT.—The Inspector General of the Department of the Treasury shall submit to the Secretary of the Treasury a report on each investigation conducted under subparagraph (A).

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

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

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

(6) DEFINITION.—In this subsection, the term 'willfully' means the voluntary, intentional violation of a known legal duty.

(i) CONTINUOUS REVIEW OF EXEMPT ENTITIES.—

(1) IN GENERAL.—On and after the effective date of the regulations promulgated under subsection (b)(4), if the Secretary of the Treasury makes a determination, which may be based on information contained in the report required under section 6502(c) of the Anti-Money Laundering Act of 2020 or on any other information

available to the Secretary, that an entity or class of entities described in subsection (a)(11)(B) has been involved in significant abuse relating to money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or any other financial crime, not later than 90 days after the date on which the Secretary makes the determination, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that explains the reasons for the determination and any administrative or legislative recommendations to prevent such abuse.

(2) CLASSIFIED ANNEX.—The report required by paragraph (1)—

(A) shall be submitted in unclassified form; and

(B) may include a classified annex.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to FinCEN for each of the 3 fiscal years beginning on the effective date of the regulations promulgated under sub-section (b)(4), such sums as may be necessary to carry out this section, including allocating funds to the States to pay reasonable costs relating to compliance with the requirements of such section.