

AMENDMENT TO THE RULES COMMITTEE PRINT

116-57

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Add at the end the following:

1 **DIVISION F—CORPORATE**
2 **TRANSPARENCY ACT OF 2019**

3 **SEC. 6001. SHORT TITLE.**

4 This division may be cited as the “Corporate Trans-
5 parency Act of 2019”.

6 **SEC. 6002. FINDINGS.**

7 Congress finds the following:

8 (1) Nearly 2,000,000 corporations and limited
9 liability companies are being formed under the laws
10 of the States each year.

11 (2) Very few States require information about
12 the beneficial owners of the corporations and limited
13 liability companies formed under their laws.

14 (3) A person forming a corporation or limited
15 liability company within the United States typically
16 provides less information at the time of incorpora-
17 tion than is needed to obtain a bank account or driv-
18 er’s license and typically does not name a single ben-
19 efcial owner.

1 (4) Criminals have exploited State formation
2 procedures to conceal their identities when forming
3 corporations or limited liability companies in the
4 United States, and have then used the newly created
5 entities to commit crimes affecting interstate and
6 international commerce such as terrorism, prolifera-
7 tion financing, drug and human trafficking, money
8 laundering, tax evasion, counterfeiting, piracy, secu-
9 rities fraud, financial fraud, and acts of foreign cor-
10 ruption.

11 (5) Law enforcement efforts to investigate cor-
12 porations and limited liability companies suspected
13 of committing crimes have been impeded by the lack
14 of available beneficial ownership information, as doc-
15 umented in reports and testimony by officials from
16 the Department of Justice, the Department of
17 Homeland Security, the Department of the Treas-
18 ury, and the Government Accountability Office, and
19 others.

20 (6) In July 2006, the leading international
21 antimoney laundering standard-setting body, the Fi-
22 nancial Action Task Force on Money Laundering (in
23 this section referred to as the “FATF”), of which
24 the United States is a member, issued a report that
25 criticizes the United States for failing to comply

1 with a FATF standard on the need to collect bene-
2 ficial ownership information and urged the United
3 States to correct this deficiency by July 2008. In
4 December 2016, FATF issued another evaluation of
5 the United States, which found that little progress
6 has been made over the last ten years to address
7 this problem. It identified the “lack of timely access
8 to adequate, accurate and current beneficial owner-
9 ship information” as a fundamental gap in United
10 States efforts to combat money laundering and ter-
11 rorist finance.

12 (7) In response to the 2006 FATF report, the
13 United States has urged the States to obtain bene-
14 ficial ownership information for the corporations and
15 limited liability companies formed under the laws of
16 such States.

17 (8) In contrast to practices in the United
18 States, all 28 countries in the European Union are
19 required to have corporate registries that include
20 beneficial ownership information.

21 (9) To reduce the vulnerability of the United
22 States to wrongdoing by United States corporations
23 and limited liability companies with hidden owners,
24 to protect interstate and international commerce
25 from criminals misusing United States corporations

1 and limited liability companies, to strengthen law en-
2 forcement investigations of suspect corporations and
3 limited liability companies, to set a clear, universal
4 standard for State incorporation practices, and to
5 bring the United States into compliance with inter-
6 national anti-money laundering standards, Federal
7 legislation is needed to require the collection of bene-
8 ficial ownership information for the corporations and
9 limited liability companies formed under the laws of
10 such States.

11 **SEC. 6003. TRANSPARENT INCORPORATION PRACTICES.**

12 (a) IN GENERAL.—

13 (1) AMENDMENT TO THE BANK SECRECY
14 ACT.—Chapter 53 of title 31, United States Code, is
15 amended by inserting after section 5332 the fol-
16 lowing new section:

17 **“§ 5333 Transparent incorporation practices**

18 **“(a) REPORTING REQUIREMENTS.—**

19 **“(1) BENEFICIAL OWNERSHIP REPORTING.—**

20 **“(A) IN GENERAL.—**Each applicant to
21 form a corporation or limited liability company
22 under the laws of a State or Indian Tribe shall
23 file a report with FinCEN containing a list of
24 the beneficial owners of the corporation or lim-
25 ited liability company that—

1 “(i) except as provided in paragraphs
2 (3) and (4), and subject to paragraph (2),
3 identifies each beneficial owner by—

4 “(I) full legal name;

5 “(II) date of birth;

6 “(III) current residential or busi-
7 ness street address; and

8 “(IV) a unique identifying num-
9 ber from a non-expired passport
10 issued by the United States, a non-ex-
11 pired personal identification card, or a
12 non-expired driver’s license issued by
13 a State; and

14 “(ii) if the applicant is not a bene-
15 ficial owner, also provides the identification
16 information described in clause (i) relating
17 to such applicant.

18 “(B) UPDATED INFORMATION.—Each cor-
19 poration or limited liability company formed
20 under the laws of a State or Indian Tribe
21 shall—

22 “(i) submit to FinCEN an annual fil-
23 ing containing a list of—

24 “(I) the current beneficial owners
25 of the corporation or limited liability

1 company and the information de-
2 scribed in subparagraph (A) for each
3 such beneficial owner; and

4 “(II) any changes in the bene-
5 ficial owners of the corporation or lim-
6 ited liability company during the pre-
7 vious year; and

8 “(ii) pursuant to any rule issued by
9 the Secretary of the Treasury under sub-
10 paragraph (C), update the list of the bene-
11 ficial owners of the corporation or limited
12 liability company within the time period
13 prescribed by such rule.

14 “(C) RULEMAKING ON UPDATING INFOR-
15 MATION.—Not later than 9 months after the
16 completion of the study required under section
17 4(a)(1) of the Corporate Transparency Act of
18 2019, the Secretary of the Treasury shall con-
19 sider the findings of such study and, if the Sec-
20 retary determines it to be necessary or appro-
21 priate, issue a rule requiring corporations and
22 limited liability companies to update the list of
23 the beneficial owners of the corporation or lim-
24 ited liability company within a specified amount
25 of time after the date of any change in the list

1 of beneficial owners or the information required
2 to be provided relating to each beneficial owner.

3 “(D) STATE NOTIFICATION.—Each State
4 in which a corporation or limited liability com-
5 pany is being formed shall notify each applicant
6 of the requirements listed in subparagraphs (A)
7 and (B).

8 “(2) CERTAIN BENEFICIAL OWNERS.—If an ap-
9 plicant to form a corporation or limited liability com-
10 pany or a beneficial owner, or similar agent of a cor-
11 poration or limited liability company who is required
12 to provide identification information under this sub-
13 section, does not have a nonexpired passport issued
14 by the United States, a nonexpired personal identi-
15 fication card, or a non-expired driver’s license issued
16 by a State, each such person shall provide to
17 FinCEN the full legal name, current residential or
18 business street address, a unique identifying number
19 from a non-expired passport issued by a foreign gov-
20 ernment, and a legible and credible copy of the
21 pages of a non-expired passport issued by the gov-
22 ernment of a foreign country bearing a photograph,
23 date of birth, and unique identifying information for
24 each beneficial owner, and each application described
25 in paragraph (1)(A) and each update described in

1 paragraph (1)(B) shall include a written certification
2 by a person residing in the State or Indian country
3 under the jurisdiction of the Indian Tribe forming
4 the entity that the applicant, corporation, or limited
5 liability company—

6 “(A) has obtained for each such beneficial
7 owner, a current residential or business street
8 address and a legible and credible copy of the
9 pages of a non-expired passport issued by the
10 government of a foreign country bearing a pho-
11 tograph, date of birth, and unique identifying
12 information for the person;

13 “(B) has verified the full legal name, ad-
14 dress, and identity of each such person;

15 “(C) will provide the information described
16 in subparagraph (A) and the proof of
17 verification described in subparagraph (B) upon
18 request of FinCEN; and

19 “(D) will retain the information and proof
20 of verification under this paragraph until the
21 end of the 5-year period beginning on the date
22 that the corporation or limited liability company
23 terminates under the laws of the State or In-
24 dian Tribe.

25 “(3) EXEMPT ENTITIES.—

1 “(A) IN GENERAL.—With respect to an ap-
2 plicant to form a corporation or limited liability
3 company under the laws of a State or Indian
4 Tribe, if such entity is described in subpara-
5 graph (C) or (D) of subsection (d)(4) and will
6 be exempt from the beneficial ownership disclo-
7 sure requirements under this subsection, such
8 applicant, or a prospective officer, director, or
9 similar agent of the applicant, shall file a writ-
10 ten certification with FinCEN—

11 “(i) identifying the specific provision
12 of subsection (d)(4) under which the entity
13 proposed to be formed would be exempt
14 from the beneficial ownership disclosure re-
15 quirements under paragraphs (1) and (2);

16 “(ii) stating that the entity proposed
17 to be formed meets the requirements for
18 an entity described under such provision of
19 subsection (d)(4); and

20 “(iii) providing identification informa-
21 tion for the applicant or prospective offi-
22 cer, director, or similar agent making the
23 certification in the same manner as pro-
24 vided under paragraph (1) or (2).

1 “(B) EXISTING CORPORATIONS OR LIM-
2 ITED LIABILITY COMPANIES.—On and after the
3 date that is 2 years after the final regulations
4 are issued to carry out this section, a corpora-
5 tion or limited liability company formed under
6 the laws of the State or Indian Tribe before
7 such date shall be subject to the requirements
8 of this subsection unless an officer, director, or
9 similar agent of the entity submits to FinCEN
10 a written certification—

11 “(i) identifying the specific provision
12 of subsection (d)(4) under which the entity
13 is exempt from the requirements under
14 paragraphs (1) and (2);

15 “(ii) stating that the entity meets the
16 requirements for an entity described under
17 such provision of subsection (d)(4); and

18 “(iii) providing identification informa-
19 tion for the officer, director, or similar
20 agent making the certification in the same
21 manner as provided under paragraph (1)
22 or (2).

23 “(C) EXEMPT ENTITIES HAVING OWNER-
24 SHIP INTEREST.—If an entity described in sub-
25 paragraph (C) or (D) of subsection (d)(4) has

1 or will have an ownership interest in a corpora-
2 tion or limited liability company formed or to be
3 formed under the laws of a State or Indian
4 Tribe, the applicant, corporation, or limited li-
5 ability company in which the entity has or will
6 have the ownership interest shall provide the in-
7 formation required under this subsection relat-
8 ing to the entity, except that the entity shall
9 not be required to provide information regard-
10 ing any natural person who has an ownership
11 interest in, exercises substantial control over, or
12 receives substantial economic benefits from the
13 entity.

14 “(4) FINCEN ID NUMBERS.—

15 “(A) ISSUANCE OF FINCEN ID NUMBER.—

16 “(i) IN GENERAL.—FinCEN shall
17 issue a FinCEN ID number to any indi-
18 vidual who requests such a number and
19 provides FinCEN with the information de-
20 scribed under subclauses (I) through (IV)
21 of paragraph (1)(A)(i).

22 “(ii) UPDATING OF INFORMATION.—

23 An individual with a FinCEN ID number
24 shall submit an annual filing with FinCEN
25 updating any information described under

1 subclauses (I) through (IV) of paragraph
2 (1)(A)(i).

3 “(B) USE OF FINCEN ID NUMBER IN RE-
4 PORTING REQUIREMENTS.—Any person re-
5 quired to report the information described
6 under paragraph (1)(A)(i) with respect to an
7 individual may instead report the FinCEN ID
8 number of the individual.

9 “(C) TREATMENT OF INFORMATION SUB-
10 MITTED FOR FINCEN ID NUMBER.—For pur-
11 poses of this section, any information submitted
12 under subparagraph (A) shall be deemed to be
13 beneficial ownership information.

14 “(5) RETENTION AND DISCLOSURE OF BENE-
15 FICIAL OWNERSHIP INFORMATION BY FINCEN.—

16 “(A) RETENTION OF INFORMATION.—Ben-
17 efiticial ownership information relating to each
18 corporation or limited liability company formed
19 under the laws of the State or Indian Tribe
20 shall be maintained by FinCEN until the end of
21 the 5-year period (or such other period of time
22 as the Secretary of the Treasury may, by rule,
23 determine) beginning on the date that the cor-
24 poration or limited liability company termi-
25 nates.

1 “(B) DISCLOSURE OF INFORMATION.—
2 Beneficial ownership information reported to
3 FinCEN pursuant to this section shall be pro-
4 vided by FinCEN only upon receipt of—

5 “(i) subject to subparagraph (C), a
6 request, through appropriate protocols, by
7 a local, Tribal, State, or Federal law en-
8 forcement agency;

9 “(ii) a request made by a Federal
10 agency on behalf of a law enforcement
11 agency of another country under an inter-
12 national treaty, agreement, or convention,
13 or an order under section 3512 of title 18
14 or section 1782 of title 28; or

15 “(iii) a request made by a financial
16 institution, with customer consent, as part
17 of the institution’s compliance with due
18 diligence requirements imposed under the
19 Bank Secrecy Act, the USA PATRIOT
20 Act, or other applicable Federal, State, or
21 Tribal law.

22 “(C) APPROPRIATE PROTOCOLS.—

23 “(i) PRIVACY.—The protocols de-
24 scribed in subparagraph (B)(i) shall—

1 “(I) protect the privacy of any
2 beneficial ownership information pro-
3 vided by FinCEN to a local, Tribal,
4 State, or Federal law enforcement
5 agency;

6 “(II) ensure that a local, Tribal,
7 State, or Federal law enforcement
8 agency requesting beneficial ownership
9 information has an existing investiga-
10 tory basis for requesting such infor-
11 mation;

12 “(III) ensure that access to bene-
13 ficial ownership information is limited
14 to authorized users at a local, Tribal,
15 State, or Federal law enforcement
16 agency who have undergone appro-
17 priate training, and refresher training
18 no less than every two years, and that
19 the identity of such authorized users
20 is verified through appropriate mecha-
21 nisms, such as two-factor authentica-
22 tion;

23 “(IV) include an audit trail of re-
24 quests for beneficial ownership infor-
25 mation by a local, Tribal, State, or

1 Federal law enforcement agency, in-
2 cluding, as necessary, information
3 concerning queries made by author-
4 ized users at a local, Tribal, State, or
5 Federal law enforcement agency;

6 “(V) require that every local,
7 Tribal, State, or Federal law enforce-
8 ment agency that receives beneficial
9 ownership information from FinCEN
10 conducts an annual audit to verify
11 that the beneficial ownership informa-
12 tion received from FinCEN has been
13 accessed and used appropriately, and
14 consistent with this paragraph; and

15 “(VI) require FinCEN to con-
16 duct an annual audit of every local,
17 Tribal, State, or Federal law enforce-
18 ment agency that has received bene-
19 ficial ownership information to ensure
20 that such agency has requested bene-
21 ficial ownership information, and has
22 used any beneficial ownership infor-
23 mation received from FinCEN, appro-
24 priately, and consistent with this
25 paragraph.

1 “(ii) LIMITATION ON USE.—Beneficial
2 ownership information provided to a local,
3 Tribal, State, or Federal law enforcement
4 agency under this paragraph may only be
5 used for law enforcement, national secu-
6 rity, or intelligence purposes.

7 “(D) ACCESS PROCEDURES.—FinCEN
8 shall establish stringent procedures for the pro-
9 tection and proper use of beneficial ownership
10 information disclosed pursuant to subparagraph
11 (B), including procedures to ensure such infor-
12 mation is not being inappropriately accessed or
13 misused by law enforcement agencies.

14 “(E) REPORT TO CONGRESS.—FinCEN
15 shall issue an annual report to Congress stat-
16 ing—

17 “(i) the number of times law enforce-
18 ment agencies and financial institutions
19 have accessed beneficial ownership infor-
20 mation pursuant to subparagraph (B);

21 “(ii) the number of times beneficial
22 ownership information reported to
23 FinCEN pursuant to this section was inap-
24 propriately accessed, and by whom; and

1 “(iii) the number of times beneficial
2 ownership information was disclosed under
3 subparagraph (B) pursuant to a subpoena.

4 “(F) DISCLOSURE OF NON-PII DATA.—
5 Notwithstanding subparagraph (B), FinCEN
6 may issue guidance and otherwise make mate-
7 rials available to financial institutions and the
8 public using beneficial ownership information
9 reported pursuant to this section if such infor-
10 mation is aggregated in a manner that removes
11 all personally identifiable information. For pur-
12 poses of this subparagraph, ‘personally identifi-
13 able information’ includes information that
14 would allow for the identification of a particular
15 corporation or limited liability company.

16 “(b) NO BEARER SHARE CORPORATIONS OR LIM-
17 ITED LIABILITY COMPANIES.—A corporation or limited li-
18 ability company formed under the laws of a State or In-
19 dian Tribe may not issue a certificate in bearer form evi-
20 dencing either a whole or fractional interest in the cor-
21 poration or limited liability company.

22 “(c) PENALTIES.—

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

1 “(A) knowingly providing, or attempting to
2 provide, false or fraudulent beneficial ownership
3 information, including a false or fraudulent
4 identifying photograph, to FinCEN in accord-
5 ance with this section;

6 “(B) willfully failing to provide complete or
7 updated beneficial ownership information to
8 FinCEN in accordance with this section; or

9 “(C) knowingly disclosing the existence of
10 a subpoena or other request for beneficial own-
11 ership information reported pursuant to this
12 section, except—

13 “(i) to the extent necessary to fulfill
14 the authorized request; or

15 “(ii) as authorized by the entity that
16 issued the subpoena, or other request.

17 “(2) CIVIL AND CRIMINAL PENALTIES.—Any
18 person who violates paragraph (1)—

19 “(A) shall be liable to the United States
20 for a civil penalty of not more than \$10,000;
21 and

22 “(B) may be fined under title 18, United
23 States Code, imprisoned for not more than 3
24 years, or both.

1 “(3) LIMITATION.—Any person who negligently
2 violates paragraph (1) shall not be subject to civil or
3 criminal penalties under paragraph (2).

4 “(4) WAIVER.—The Secretary of the Treasury
5 may waive the penalty for violating paragraph (1) if
6 the Secretary determines that the violation was due
7 to reasonable cause and was not due to willful ne-
8 glect.

9 “(5) CRIMINAL PENALTY FOR THE MISUSE OR
10 UNAUTHORIZED DISCLOSURE OF BENEFICIAL OWN-
11 ERSHIP INFORMATION.—The criminal penalties pro-
12 vided for under section 5322 shall apply to a viola-
13 tion of this section to the same extent as such crimi-
14 nal penalties apply to a violation described in section
15 5322, if the violation of this section consists of the
16 misuse or unauthorized disclosure of beneficial own-
17 ership information.

18 “(d) DEFINITIONS.—For the purposes of this section:

19 “(1) APPLICANT.—The term ‘applicant’ means
20 any natural person who files an application to form
21 a corporation or limited liability company under the
22 laws of a State or Indian Tribe.

23 “(2) BANK SECRECY ACT.—The term ‘Bank Se-
24 crecy Act’ means—

1 “(A) section 21 of the Federal Deposit In-
2 surance Act;

3 “(B) chapter 2 of title I of Public Law 91-
4 508; and

5 “(C) this subchapter.

6 “(3) BENEFICIAL OWNER.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the term ‘beneficial owner’
9 means a natural person who, directly or indi-
10 rectly, through any contract, arrangement, un-
11 derstanding, relationship, or otherwise—

12 “(i) exercises substantial control over
13 a corporation or limited liability company;

14 “(ii) owns 25 percent or more of the
15 equity interests of a corporation or limited
16 liability company; or

17 “(iii) receives substantial economic
18 benefits from the assets of a corporation or
19 limited liability company.

20 “(B) EXCEPTIONS.—The term ‘beneficial
21 owner’ shall not include—

22 “(i) a minor child, as defined in the
23 State or Indian Tribe in which the entity
24 is formed;

1 “(ii) a person acting as a nominee,
2 intermediary, custodian, or agent on behalf
3 of another person;

4 “(iii) a person acting solely as an em-
5 ployee of a corporation or limited liability
6 company and whose control over or eco-
7 nomic benefits from the corporation or lim-
8 ited liability company derives solely from
9 the employment status of the person;

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

13 “(v) a creditor of a corporation or
14 limited liability company, unless the cred-
15 itor also meets the requirements of sub-
16 paragraph (A).

17 “(C) SUBSTANTIAL ECONOMIC BENEFITS
18 DEFINED.—

19 “(i) IN GENERAL.—For purposes of
20 subparagraph (A)(ii), a natural person re-
21 ceives substantial economic benefits from
22 the assets of a corporation or limited liabil-
23 ity company if the person has an entitle-
24 ment to more than a specified percentage
25 of the funds or assets of the corporation or

1 limited liability company, which the Sec-
2 retary of the Treasury shall, by rule, estab-
3 lish.

4 “(ii) RULEMAKING CRITERIA.—In es-
5 tablishing the percentage under clause (i),
6 the Secretary of the Treasury shall seek
7 to—

8 “(I) provide clarity to corpora-
9 tions and limited liability companies
10 with respect to the identification and
11 disclosure of a natural person who re-
12 ceives substantial economic benefits
13 from the assets of a corporation or
14 limited liability company; and

15 “(II) identify those natural per-
16 sons who, as a result of the substan-
17 tial economic benefits they receive
18 from the assets of a corporation or
19 limited liability company, exercise a
20 dominant influence over such corpora-
21 tion or limited liability company.

22 “(4) CORPORATION; LIMITED LIABILITY COM-
23 PANY.—The terms ‘corporation’ and ‘limited liability
24 company’—

1 “(A) have the meanings given such terms
2 under the laws of the applicable State or Indian
3 Tribe;

4 “(B) include any non-United States entity
5 eligible for registration or registered to do busi-
6 ness as a corporation or limited liability com-
7 pany under the laws of the applicable State or
8 Indian Tribe;

9 “(C) do not include any entity that is—

10 “(i) a business concern that is an
11 issuer of a class of securities registered
12 under section 12 of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 781) or
14 that is required to file reports under sec-
15 tion 15(d) of that Act (15 U.S.C. 78o(d));

16 “(ii) a business concern constituted,
17 sponsored, or chartered by a State or In-
18 dian Tribe, a political subdivision of a
19 State or Indian Tribe, under an interstate
20 compact between two or more States, by a
21 department or agency of the United
22 States, or under the laws of the United
23 States;

24 “(iii) a bank, as defined under—

1 “(I) section 2(a) of the Invest-
2 ment Company Act of 1940 (15
3 U.S.C. 80a-2(a)); or

4 “(II) section 202(a) of the In-
5 vestment Advisers Act of 1940 (15
6 U.S.C. 80b-2(a));

7 “(iv) a credit union (as defined in sec-
8 tion 101 of the Federal Credit Union Act
9 (12 U.S.C. 1752));

10 “(v) a bank holding company (as de-
11 fined in section 2 of the Bank Holding
12 Company Act of 1956 (12 U.S.C. 1841))
13 or a savings and loan holding company (as
14 defined in section 10(a) of the Home Own-
15 ers’ Loan Act (12 U.S.C. 1467a(a));

16 “(vi) a broker or dealer (as defined in
17 section 3 of the Securities Exchange Act of
18 1934 (15 U.S.C. 78c)) that is registered
19 under section 15 of the Securities Ex-
20 change Act of 1934 (15 U.S.C. 78o);

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

1 of the Securities Exchange Act of 1934
2 (15 U.S.C. 78f and 78q-1);

3 “(viii) an investment company (as de-
4 fined in section 3 of the Investment Com-
5 pany Act of 1940 (15 U.S.C. 80a-3)) or
6 an investment adviser (as defined in sec-
7 tion 202(11) of the Investment Advisers
8 Act of 1940 (15 U.S.C. 80b-2(11))), if the
9 company or adviser is registered with the
10 Securities and Exchange Commission, has
11 filed an application for registration which
12 has not been denied, under the Investment
13 Company Act of 1940 (15 U.S.C. 80a-1 et
14 seq.) or the Investment Adviser Act of
15 1940 (15 U.S.C. 80b-1 et seq.), or is an
16 investment adviser described under section
17 203(l) of the Investment Advisers Act of
18 1940 (15 U.S.C. 80b-3(l));

19 “(ix) an insurance company (as de-
20 fined in section 2 of the Investment Com-
21 pany Act of 1940 (15 U.S.C. 80a-2));

22 “(x) a registered entity (as defined in
23 section 1a of the Commodity Exchange Act
24 (7 U.S.C. 1a)), or a futures commission
25 merchant, introducing broker, commodity

1 pool operator, or commodity trading advi-
2 sor (as defined in section 1a of the Com-
3modity Exchange Act (7 U.S.C. 1a)) that
4 is registered with the Commodity Futures
5 Trading Commission;

6 “(xi) a public accounting firm reg-
7 istered in accordance with section 102 of
8 the Sarbanes-Oxley Act (15 U.S.C. 7212)
9 or an entity controlling, controlled by, or
10 under common control of such a firm;

11 “(xii) a public utility that provides
12 telecommunications service, electrical
13 power, natural gas, or water and sewer
14 services, within the United States;

15 “(xiii) a church, charity, nonprofit en-
16 tity, or other organization that is described
17 in section 501(c), 527, or 4947(a)(1) of
18 the Internal Revenue Code of 1986, that
19 has not been denied tax exempt status, and
20 that has filed the most recently due annual
21 information return with the Internal Rev-
22 enue Service, if required to file such a re-
23 turn;

24 “(xiv) a financial market utility des-
25 igned by the Financial Stability Over-

1 sight Council under section 804 of the
2 Dodd-Frank Wall Street Reform and Con-
3 sumer Protection Act;

4 “(xv) an insurance producer (as de-
5 fined in section 334 of the Gramm-Leach-
6 Bliley Act);

7 “(xvi) any pooled investment vehicle
8 that is operated or advised by a person de-
9 scribed in clause (iii), (iv), (v), (vi), (viii),
10 (ix), or (xi);

11 “(xvii) any business concern that—

12 “(I) employs more than 20 em-
13 ployees on a full-time basis in the
14 United States;

15 “(II) files income tax returns in
16 the United States demonstrating more
17 than \$5,000,000 in gross receipts or
18 sales; and

19 “(III) has an operating presence
20 at a physical office within the United
21 States; or

22 “(xviii) any corporation or limited li-
23 ability company formed and owned by an
24 entity described in this clause or in clause
25 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix),

1 (x), (xi), (xii), (xiii), (xiv), (xv), or (xvi);

2 and

3 “(D) do not include any individual busi-
4 ness concern or class of business concerns
5 which the Secretary of the Treasury and the
6 Attorney General of the United States have
7 jointly determined, by rule or otherwise, to be
8 exempt from the requirements of subsection (a),
9 if the Secretary and the Attorney General joint-
10 ly determine that requiring beneficial ownership
11 information from the business concern would
12 not serve the public interest and would not as-
13 sist law enforcement efforts to detect, prevent,
14 or prosecute terrorism, money laundering, tax
15 evasion, or other misconduct.

16 “(5) FINCEN.—The term ‘FinCEN’ means the
17 Financial Crimes Enforcement Network of the De-
18 partment of the Treasury.

19 “(6) INDIAN COUNTRY.—The term ‘Indian
20 country’ has the meaning given that term in section
21 1151 of title 18.

22 “(7) INDIAN TRIBE.—The term ‘Indian Tribe’
23 has the meaning given that term under section 102
24 of the Federally Recognized Indian Tribe List Act of
25 1994.

1 “(8) PERSONAL IDENTIFICATION CARD.—The
2 term ‘personal identification card’ means an identi-
3 fication document issued by a State, Indian Tribe,
4 or local government to an individual solely for the
5 purpose of identification of that individual.

6 “(9) STATE.—The term ‘State’ means any
7 State, commonwealth, territory, or possession of the
8 United States, the District of Columbia, the Com-
9 monwealth of Puerto Rico, the Commonwealth of the
10 Northern Mariana Islands, American Samoa, Guam,
11 or the United States Virgin Islands.”.

12 (2) RULEMAKING.—

13 (A) IN GENERAL.—Not later than 1 year
14 after the date of enactment of this Act, the Sec-
15 retary of the Treasury shall issue regulations to
16 carry out this division and the amendments
17 made by this division, including, to the extent
18 necessary, to clarify the definitions in section
19 5333(d) of title 31, United States Code.

20 (B) REVISION OF FINAL RULE.—Not later
21 than 1 year after the date of enactment of this
22 Act, the Secretary of the Treasury shall revise
23 the final rule titled “Customer Due Diligence
24 Requirements for Financial Institutions” (May
25 11, 2016; 81 Fed. Reg. 29397) to—

1 (i) bring the rule into conformance
2 with this division and the amendments
3 made by this division;

4 (ii) account for financial institutions'
5 access to comprehensive beneficial owner-
6 ship information filed by corporations and
7 limited liability companies, under threat of
8 civil and criminal penalties, under this divi-
9 sion and the amendments made by this di-
10 vision; and

11 (iii) reduce any burdens on financial
12 institutions that are, in light of the enact-
13 ment of this division and the amendments
14 made by this division, unnecessary or du-
15 plicative.

16 (3) CONFORMING AMENDMENTS.—Title 31,
17 United States Code, is amended—

18 (A) in section 5321(a)—

19 (i) in paragraph (1), by striking “sec-
20 tions 5314 and 5315” each place it ap-
21 pears and inserting “sections 5314, 5315,
22 and 5333”; and

23 (ii) in paragraph (6), by inserting
24 “(except section 5333)” after “sub-
25 chapter” each place it appears; and

1 (B) in section 5322, by striking “section
2 5315 or 5324” each place it appears and insert-
3 ing “section 5315, 5324, or 5333”.

4 (4) TABLE OF CONTENTS.—The table of con-
5 tents of chapter 53 of title 31, United States Code,
6 is amended by inserting after the item relating to
7 section 5332 the following:

“5333. Transparent incorporation practices.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated \$20,000,000 for each of fis-
10 cal years 2021 and 2022 to the Financial Crimes Enforce-
11 ment Network to carry out this division and the amend-
12 ments made by this division.

13 (c) FEDERAL CONTRACTORS.—Not later than the
14 first day of the first full fiscal year beginning at least 1
15 year after the date of the enactment of this Act, the Ad-
16 ministrator for Federal Procurement Policy shall revise
17 the Federal Acquisition Regulation maintained under sec-
18 tion 1303(a)(1) of title 41, United States Code, to require
19 any contractor or subcontractor who is subject to the re-
20 quirement to disclose beneficial ownership information
21 under section 5333 of title 31, United States Code, to pro-
22 vide the information required to be disclosed under such
23 section to the Federal Government as part of any bid or
24 proposal for a contract with a value threshold in excess

1 of the simplified acquisition threshold under section 134
2 of title 41, United States Code.

3 **SEC. 6004. STUDIES AND REPORTS.**

4 (a) UPDATING OF BENEFICIAL OWNERSHIP INFOR-
5 MATION.—

6 (1) STUDY.—The Secretary of the Treasury, in
7 consultation with the Attorney General of the United
8 States, shall conduct a study to evaluate—

9 (A) the necessity of a requirement for cor-
10 porations and limited liability companies to up-
11 date the list of their beneficial owners within a
12 specified amount of time after the date of any
13 change in the list of beneficial owners or the in-
14 formation required to be provided relating to
15 each beneficial owner, taking into account the
16 annual filings required under section
17 5333(a)(1)(B)(i) of title 31, United States
18 Code, and the information contained in such
19 annual filings; and

20 (B) the burden that a requirement to up-
21 date the list of beneficial owners within a speci-
22 fied period of time after a change in such list
23 of beneficial owners would impose on corpora-
24 tions and limited liability companies.

1 (2) REPORT.—Not later than 1 year after the
2 date of enactment of this Act, the Secretary of the
3 Treasury shall submit a report on the study required
4 under paragraph (1) to the Committee on Financial
5 Services of the House of Representatives and the
6 Committee on Banking, Housing, and Urban Affairs
7 of the Senate.

8 (3) PUBLIC COMMENT.—The Secretary of the
9 Treasury shall seek and consider public input, com-
10 ments, and data in order to conduct the study re-
11 quired under subparagraph paragraph (1).

12 (b) OTHER LEGAL ENTITIES.—Not later than 2
13 years after the date of enactment of this Act, the Comp-
14 troller General of the United States shall conduct a study
15 and submit to the Congress a report—

16 (1) identifying each State or Indian Tribe that
17 has procedures that enable persons to form or reg-
18 ister under the laws of the State or Indian Tribe
19 partnerships, trusts, or other legal entities, and the
20 nature of those procedures;

21 (2) identifying each State or Indian Tribe that
22 requires persons seeking to form or register partner-
23 ships, trusts, or other legal entities under the laws
24 of the State or Indian Tribe to provide information
25 about the beneficial owners (as that term is defined

1 in section 5333(d)(1) of title 31, United States
2 Code, as added by this division) or beneficiaries of
3 such entities, and the nature of the required infor-
4 mation;

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

8 (A) raises concerns about the involvement
9 of such entities in terrorism, money laundering,
10 tax evasion, securities fraud, or other mis-
11 conduct;

12 (B) has impeded investigations into enti-
13 ties suspected of such misconduct; and

14 (C) increases the costs to financial institu-
15 tions of complying with due diligence require-
16 ments imposed under the Bank Secrecy Act, the
17 USA PATRIOT Act, or other applicable Fed-
18 eral, State, or Tribal law; and

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

1 (c) EFFECTIVENESS OF INCORPORATION PRAC-
2 TICES.—Not later than 5 years after the date of enact-
3 ment of this Act, the Comptroller General of the United
4 States shall conduct a study and submit to the Congress
5 a report assessing the effectiveness of incorporation prac-
6 tices implemented under this division and the amendments
7 made by this division in—

8 (1) providing law enforcement agencies with
9 prompt access to reliable, useful, and complete bene-
10 ficial ownership information; and

11 (2) strengthening the capability of law enforce-
12 ment agencies to combat incorporation abuses, civil
13 and criminal misconduct, and detect, prevent, or
14 punish terrorism, money laundering, tax evasion, or
15 other misconduct.

16 (d) ANNUAL REPORT ON BENEFICIAL OWNERSHIP
17 INFORMATION.—

18 (1) REPORT.—The Secretary of the Treasury
19 shall issue an annual report to the Committee on Fi-
20 nancial Services of the House of Representatives and
21 the Committee on Banking, Housing, and Urban Af-
22 fairs of the Senate with respect to the beneficial
23 ownership information collected pursuant to section
24 5333 of title 31, United States Code, that con-
25 tains—

1 (A) aggregate data on the number of bene-
2 ficial owners per reporting corporation or lim-
3 ited liability company;

4 (B) the industries or type of business of
5 each reporting corporation or limited liability
6 company; and

7 (C) the locations of the beneficial owners.

8 (2) PRIVACY.—In issuing reports under para-
9 graph (1), the Secretary shall not reveal the identi-
10 ties of beneficial owners or names of the reporting
11 corporations or limited liability companies.

12 **SEC. 6005. DEFINITIONS.**

13 In this division, the terms “Bank Secrecy Act”, “ben-
14 eficial owner”, “corporation”, and “limited liability com-
15 pany” have the meaning given those terms, respectively,
16 under section 5333(d) of title 31, United States Code.

17 **DIVISION G—COUNTER ACT OF**
18 **2019**

19 **SEC. 7001. SHORT TITLE; TABLE OF CONTENTS.**

20 (a) SHORT TITLE.—This division may be cited as the
21 “Coordinating Oversight, Upgrading and Innovating
22 Technology, and Examiner Reform Act of 2019” or the
23 “COUNTER Act of 2019”.

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

DIVISION G—COUNTER ACT OF 2019

- Sec. 7001. Short title; table of contents.
- Sec. 7002. Bank Secrecy Act definition.

TITLE I—STRENGTHENING TREASURY

- Sec. 7101. Improving the definition and purpose of the Bank Secrecy Act.
- Sec. 7102. Special hiring authority.
- Sec. 7103. Civil Liberties and Privacy Officer.
- Sec. 7104. Civil Liberties and Privacy Council.
- Sec. 7105. International coordination.
- Sec. 7106. Treasury Attachés Program.
- Sec. 7107. Increasing technical assistance for international cooperation.
- Sec. 7108. FinCEN Domestic Liaisons.
- Sec. 7109. FinCEN Exchange.
- Sec. 7110. Study and strategy on trade-based money laundering.
- Sec. 7111. Study and strategy on de-risking.
- Sec. 7112. AML examination authority delegation study.
- Sec. 7113. Study and strategy on Chinese money laundering.

TITLE II—IMPROVING AML/CFT OVERSIGHT

- Sec. 7201. Pilot program on sharing of suspicious activity reports within a financial group.
- Sec. 7202. Sharing of compliance resources.
- Sec. 7203. GAO Study on feedback loops.
- Sec. 7204. FinCEN study on BSA value.
- Sec. 7205. Sharing of threat pattern and trend information.
- Sec. 7206. Modernization and upgrading whistleblower protections.
- Sec. 7207. Certain violators barred from serving on boards of United States financial institutions.
- Sec. 7208. Additional damages for repeat Bank Secrecy Act violators.
- Sec. 7209. Justice annual report on deferred and non-prosecution agreements.
- Sec. 7210. Return of profits and bonuses.
- Sec. 7211. Application of Bank Secrecy Act to dealers in antiquities.
- Sec. 7212. Geographic targeting order.
- Sec. 7213. Study and revisions to currency transaction reports and suspicious activity reports.
- Sec. 7214. Streamlining requirements for currency transaction reports and suspicious activity reports.

TITLE III—MODERNIZING THE AML SYSTEM

- Sec. 7301. Encouraging innovation in BSA compliance.
- Sec. 7302. Innovation Labs.
- Sec. 7303. Innovation Council.
- Sec. 7304. Testing methods rulemaking.
- Sec. 7305. FinCEN study on use of emerging technologies.
- Sec. 7306. Discretionary surplus funds.

1 **SEC. 7002. BANK SECRECY ACT DEFINITION.**

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

1 “(7) BANK SECRECY ACT.—The term ‘Bank Se-
2 crecy act’ means—

3 “(A) section 21 of the Federal Deposit In-
4 surance Act;

5 “(B) chapter 2 of title I of Public Law 91–
6 508; and

7 “(C) this subchapter.”.

8 **TITLE I—STRENGTHENING**
9 **TREASURY**

10 **SEC. 7101. IMPROVING THE DEFINITION AND PURPOSE OF**
11 **THE BANK SECRECY ACT.**

12 Section 5311 of title 31, United States Code, is
13 amended—

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

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

19 **SEC. 7102. SPECIAL HIRING AUTHORITY.**

20 (a) IN GENERAL.—Section 310 of title 31, United
21 States Code, is amended—

22 (1) by redesignating subsection (d) as sub-
23 section (g); and

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

1 “(d) SPECIAL HIRING AUTHORITY.—

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

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

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

20 (1) the number of new employees hired since
21 the preceding report through the authorities de-
22 scribed under section 310(d) of title 31, United
23 States Code, along with position titles and associ-
24 ated pay grades for such hires; and

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

7 **SEC. 7103. CIVIL LIBERTIES AND PRIVACY OFFICER.**

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

13 (1) within each Federal functional regulator, by
14 the head of the Federal functional regulator;

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

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

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

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

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

4 (3) ensure coordination and clarity between
5 anti-money laundering, civil liberties, and privacy
6 regulations;

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

12 (5) develop metrics of program success.

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

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

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

1 **SEC. 7104. CIVIL LIBERTIES AND PRIVACY COUNCIL.**

2 (a) ESTABLISHMENT.—There is established the Civil
3 Liberties and Privacy Council (hereinafter in this section
4 referred to as the “Council”), which shall consist of the
5 Civil Liberties and Privacy Officers appointed pursuant to
6 section 7103.

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

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

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

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

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

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

24 (e) REPORT.—The Chair of the Council shall issue
25 an annual report to the Congress on the program and pol-
26 icy activities, including the success of programs as meas-

1 ured by metrics of program success developed pursuant
2 to section 103(b)(5), of the Council during the previous
3 year and any legislative recommendations that the Council
4 may have.

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

8 **SEC. 7105. INTERNATIONAL COORDINATION.**

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

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

22 (c) INTERNATIONAL MONETARY FUND.—

23 (1) SUPPORT FOR CAPACITY OF THE INTER-
24 NATIONAL MONETARY FUND TO PREVENT MONEY
25 LAUNDERING AND FINANCING OF TERRORISM.—

1 Title XVI of the International Financial Institutions
2 Act (22 U.S.C. 262p et seq.) is amended by adding
3 at the end the following:

4 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
5 **NATIONAL MONETARY FUND TO PREVENT**
6 **MONEY LAUNDERING AND FINANCING OF**
7 **TERRORISM.**

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

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

20 (A) the activities of the International Mon-
21 etary Fund in the most recently completed fis-
22 cal year to provide technical assistance that
23 strengthens the capacity of Fund members to
24 prevent money laundering and the financing of

1 terrorism, and the effectiveness of the assist-
2 ance; and

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

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

12 **SEC. 7106. TREASURY ATTACHÉS PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(b) NUMBER OF ATTACHÉS.—The number of Treas-
22 ury attachés appointed under this section at any one time
23 shall be not fewer than 6 more employees than the number
24 of employees of the Department of the Treasury serving
25 as Treasury attachés on March 1, 2020.

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

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

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

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

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

 “316. Treasury Attachés Program.”.

17 **SEC. 7107. INCREASING TECHNICAL ASSISTANCE FOR**
18 **INTERNATIONAL COOPERATION.**

19 (a) IN GENERAL.—There is authorized to be appro-
20 priated for each of fiscal years 2021 through 2025 to the
21 Secretary of the Treasury for purposes of providing tech-
22 nical assistance that promotes compliance with inter-
23 national standards and best practices, including in par-
24 ticular those aimed at the establishment of effective anti-
25 money laundering and countering the financing of ter-

1 rorism regimes, in an amount equal to twice the amount
2 authorized for such purpose for fiscal year 2020.

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

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

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

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

20 (4) a description of how technical assistance
21 provided by the Office complements, duplicates, or
22 otherwise affects or is affected by technical assist-
23 ance provided by the international financial institu-
24 tions (as defined under section 1701(c) of the Inter-
25 national Financial Institutions Act); and

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

6 **SEC. 7108. FINCEN DOMESTIC LIAISONS.**

7 Section 310 of title 31, United States Code, as
8 amended by section 7102, is further amended by inserting
9 after subsection (d) the following:

10 “(e) FINCEN DOMESTIC LIAISONS.—

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

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

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

20 “(C) perform outreach to BSA officers at
21 financial institutions (including non-bank finan-
22 cial institutions) and persons who are not finan-
23 cial institutions, especially with respect to ac-
24 tions taken by FinCEN that require specific ac-
25 tions by, or have specific effects on, such insti-

1 tutions or persons, as determined by the Direc-
2 tor.

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

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

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

12 **SEC. 7109. FINCEN EXCHANGE.**

13 Section 310 of title 31, United States Code, as
14 amended by section 7108, is further amended by inserting
15 after subsection (e) the following:

16 “(f) FINCEN EXCHANGE.—

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

22 “(2) PURPOSE.—The FinCEN Exchange shall
23 facilitate a voluntary public-private information
24 sharing partnership among law enforcement, finan-
25 cial institutions, and FinCEN to—

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

4 “(B) protect the financial system from il-
5 licit use; and

6 “(C) promote national security.

7 “(3) REPORT.—

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

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

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

24 “(iii) any legislative, administrative,
25 or other recommendations the Secretary

1 may have to strengthen FinCEN Exchange
2 efforts.

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

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

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

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

18 **SEC. 7110. STUDY AND STRATEGY ON TRADE-BASED MONEY**
19 **LAUNDERING.**

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

24 (b) REPORT.—Not later than the end of the 1-year
25 period beginning on the date of the enactment of this Act,

1 the Secretary shall issue a report to the Congress con-
2 taining—

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

6 (2) proposed strategies to combat trade-based
7 money laundering.

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

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

17 **SEC. 7111. STUDY AND STRATEGY ON DE-RISKING.**

18 (a) REVIEW.—The Secretary of the Treasury, in con-
19 sultation with appropriate private sector stakeholders, ex-
20 aminers, the Federal functional regulators (as defined
21 under section 7103), State bank supervisors, and other
22 relevant stakeholders, shall undertake a formal review
23 of—

24 (1) any adverse consequences of financial insti-
25 tutions de-risking entire categories of relationships,

1 including charities, embassy accounts, money serv-
2 ices businesses (as defined under section
3 1010.100(ff) of title 31, Code of Federal Regula-
4 tions) and their agents, countries, international and
5 domestic regions, and respondent banks;

6 (2) the reasons why financial institutions are
7 engaging in de-risking;

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

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

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

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

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

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

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

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

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

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

20 (2) the strategy developed pursuant to sub-
21 section (b).

22 (d) DEFINITIONS.—In this section:

23 (1) DE-RISKING.—The term “de-risking”
24 means the wholesale closing of accounts or limiting
25 of financial services for a category of customer due

1 to unsubstantiated risk as it relates to compliance
2 with the Bank Secrecy Act.

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

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

11 **SEC. 7112. AML EXAMINATION AUTHORITY DELEGATION**
12 **STUDY.**

13 (a) STUDY.—The Secretary of the Treasury, in con-
14 sultation with State bank supervisors (as defined under
15 section 3 of the Federal Deposit Insurance Act (12 U.S.C.
16 1813)) and other relevant stakeholders, shall carry out a
17 study on the Secretary’s delegation of examination author-
18 ity under the Bank Secrecy Act, including—

19 (1) an evaluation of the efficacy of the delega-
20 tion, especially with respect to the mission of the
21 Bank Secrecy Act;

22 (2) whether the delegated agencies have appro-
23 priate resources to perform their delegated respon-
24 sibilities; and

1 (3) whether the examiners in delegated agencies
2 have sufficient training and support to perform their
3 responsibilities.

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

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

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

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

20 **SEC. 7113. STUDY AND STRATEGY ON CHINESE MONEY**
21 **LAUNDERING.**

22 (a) STUDY.—The Secretary of the Treasury shall
23 carry out a study on the extent and effect of Chinese
24 money laundering activities in the United States, including

1 territories and possessions of the United States, and
2 worldwide.

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

9 (c) REPORT.—Not later than the end of the 1-year
10 period beginning on the date of enactment of this Act, the
11 Secretary of the Treasury shall issue a report to Congress
12 containing—

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

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

17 **TITLE II—IMPROVING AML/CFT**
18 **OVERSIGHT**

19 **SEC. 7201. PILOT PROGRAM ON SHARING OF SUSPICIOUS**
20 **ACTIVITY REPORTS WITHIN A FINANCIAL**
21 **GROUP.**

22 (a) IN GENERAL.—

23 (1) SHARING WITH FOREIGN BRANCHES AND
24 AFFILIATES.—Section 5318(g) of title 31, United

1 States Code, is amended by adding at the end the
2 following:

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

5 “(A) IN GENERAL.—The Secretary of the
6 Treasury shall issue rules establishing the pilot
7 program described under subparagraph (B),
8 subject to such controls and restrictions as the
9 Director of the Financial Crimes Enforcement
10 Network determines appropriate, including con-
11 trols and restrictions regarding participation by
12 financial institutions and jurisdictions in the
13 pilot program. In prescribing such rules, the
14 Secretary shall ensure that the sharing of infor-
15 mation described under such subparagraph (B)
16 is subject to appropriate standards and require-
17 ments regarding data security and the confiden-
18 tiality of personally identifiable information.

19 “(B) PILOT PROGRAM DESCRIBED.—The
20 pilot program required under this paragraph
21 shall—

22 “(i) permit a financial institution with
23 a reporting obligation under this sub-
24 section to share reports (and information
25 on such reports) under this subsection with

1 the institution’s foreign branches, subsidi-
2 aries, and affiliates for the purpose of com-
3 bating illicit finance risks, notwithstanding
4 any other provision of law except subpara-
5 graphs (A) and (C);

6 “(ii) terminate on the date that is five
7 years after the date of enactment of this
8 paragraph, except that the Secretary may
9 extend the pilot program for up to two
10 years upon submitting a report to the
11 Committee on Financial Services of the
12 House of Representatives and the Com-
13 mittee on Banking, Housing, and Urban
14 Affairs of the Senate that includes—

15 “(I) a certification that the ex-
16 tension is in the national interest of
17 the United States, with a detailed ex-
18 planation of the reasons therefor;

19 “(II) an evaluation of the useful-
20 ness of the pilot program, including a
21 detailed analysis of any illicit activity
22 identified or prevented as a result of
23 the program; and

24 “(III) a detailed legislative pro-
25 posal providing for a long-term exten-

1 sion of the pilot program activities, in-
2 cluding expected budgetary resources
3 for the activities, if the Secretary de-
4 termines that a long-term extension is
5 appropriate.

6 “(C) PROHIBITION INVOLVING CERTAIN
7 JURISDICTIONS.—In issuing the regulations re-
8 quired under subparagraph (A), the Secretary
9 may not permit a financial institution to share
10 information on reports under this subsection
11 with a foreign branch, subsidiary, or affiliate lo-
12 cated in—

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

14 “(ii) the Russian Federation; or

15 “(iii) a jurisdiction that—

16 “(I) is subject to counter-
17 measures imposed by the Federal
18 Government;

19 “(II) is a state sponsor of ter-
20 rorism; or

21 “(III) the Secretary has deter-
22 mined cannot reasonably protect the
23 privacy and confidentiality of such in-
24 formation or would otherwise use such
25 information in a manner that is not

1 consistent with the national interest of
2 the United States.

3 “(D) IMPLEMENTATION UPDATES.—Not
4 later than 360 days after the date rules are
5 issued under subparagraph (A), and annually
6 thereafter for three years, the Secretary, or the
7 Secretary’s designee, shall brief the Committee
8 on Financial Services of the House of Rep-
9 resentatives and the Committee on Banking,
10 Housing, and Urban Affairs of the Senate on—

11 “(i) the degree of any information
12 sharing permitted under the pilot program,
13 and a description of criteria used by the
14 Secretary to evaluate the appropriateness
15 of the information sharing;

16 “(ii) the effectiveness of the pilot pro-
17 gram in identifying or preventing the viola-
18 tion of a United States law or regulation,
19 and mechanisms that may improve such ef-
20 fectiveness; and

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

23 “(E) RULE OF CONSTRUCTION.—Nothing
24 in this paragraph shall be construed as limiting
25 the Secretary’s authority under provisions of

1 law other than this paragraph to establish other
2 permissible purposes or methods for a financial
3 institution sharing reports (and information on
4 such reports) under this subsection with the in-
5 stitution's foreign headquarters or with other
6 branches of the same institution.

7 “(F) NOTICE OF USE OF OTHER AUTHOR-
8 ITY.—If the Secretary, pursuant to any author-
9 ity other than that provided under this para-
10 graph, permits a financial institution to share
11 information on reports under this subsection
12 with a foreign branch, subsidiary, or affiliate lo-
13 cated in a foreign jurisdiction, the Secretary
14 shall notify the Committee on Financial Serv-
15 ices of the House of Representatives and the
16 Committee on Banking, Housing, and Urban
17 Affairs of such permission and the applicable
18 foreign jurisdiction.

19 “(6) TREATMENT OF FOREIGN JURISDICTION-
20 ORIGINATED REPORTS.—A report received by a fi-
21 nancial institution from a foreign affiliate with re-
22 spect to a suspicious transaction relevant to a pos-
23 sible violation of law or regulation shall be subject
24 to the same confidentiality requirements provided

1 under this subsection for a report of a suspicious
2 transaction described under paragraph (1).”.

3 (2) NOTIFICATION PROHIBITIONS.—Section
4 5318(g)(2)(A) of title 31, United States Code, is
5 amended—

6 (A) in clause (i), by inserting after “trans-
7 action has been reported” the following: “or
8 otherwise reveal any information that would re-
9 veal that the transaction has been reported”;
10 and

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

15 (b) RULEMAKING.—Not later than the end of the
16 360-day period beginning on the date of enactment of this
17 Act, the Secretary of the Treasury shall issue regulations
18 to carry out the amendments made by this section.

19 **SEC. 7202. SHARING OF COMPLIANCE RESOURCES.**

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

23 “(o) SHARING OF COMPLIANCE RESOURCES.—

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

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

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

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

12 **SEC. 7203. GAO STUDY ON FEEDBACK LOOPS.**

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

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

24 (2) any practices or standards inside or outside
25 the United States for providing feedback through

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

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

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

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

20 (3) recommendations to reduce or eliminate any
21 unnecessary Government collection of the informa-
22 tion described under subsection (a)(1).

1 **SEC. 7204. FINCEN STUDY ON BSA VALUE.**

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

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

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

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

20 **SEC. 7205. SHARING OF THREAT PATTERN AND TREND IN-**
21 **FORMATION.**

22 Section 5318(g) of title 31, United States Code, as
23 amended by section 7201(a)(1), is further amended by
24 adding at the end the following:

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

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

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

20 “(C) TYPOLOGY DEFINED.—For purposes
21 of this paragraph, the term ‘typology’ means
22 the various techniques used to launder money
23 or finance terrorism.”.

1 **SEC. 7206. MODERNIZATION AND UPGRADING WHISTLE-**
2 **BLOWER PROTECTIONS.**

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

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

11 (b) WHISTLEBLOWER INCENTIVES.—Chapter 53 of
12 title 31, United States Code, is amended—

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

15 **“§ 5323A. Whistleblower incentives**

16 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(b) AWARDS.—

13 “(1) IN GENERAL.—In any covered judicial or
14 administrative action, or related action, the Sec-
15 retary, under such rules as the Secretary may issue
16 and subject to subsection (c), shall pay an award or
17 awards to 1 or more whistleblowers who voluntarily
18 provided original information to FinCEN that led to
19 the successful enforcement of the covered judicial or
20 administrative action, or related action, in an aggre-
21 gate amount equal to not more than 30 percent, in
22 total, of what has been collected of the monetary
23 sanctions imposed in the action.

24 “(2) SOURCE OF AWARDS.—For the purposes of
25 paying any award under paragraph (1), the Sec-

1 retary may, subject to amounts made available in
2 advance by appropriation Acts, use monetary sanc-
3 tion amounts recovered based on the original infor-
4 mation with respect to which the award is being
5 paid.

6 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
7 NIAL OF AWARD.—

8 “(1) DETERMINATION OF AMOUNT OF
9 AWARD.—

10 “(A) DISCRETION.—The determination of
11 the amount of an award made under subsection
12 (b) shall be in the discretion of the Secretary.

13 “(B) CRITERIA.—In responding to a dis-
14 closure and determining the amount of an
15 award made, FinCEN staff shall meet with the
16 whistleblower to discuss evidence disclosed and
17 rebuttals to the disclosure, and shall take into
18 consideration—

19 “(i) the significance of the informa-
20 tion provided by the whistleblower to the
21 success of the covered judicial or adminis-
22 trative action;

23 “(ii) the degree of assistance provided
24 by the whistleblower and any legal rep-

1 representative of the whistleblower in a cov-
2 ered judicial or administrative action;

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

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

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

12 “(A) to any whistleblower who is, or was at
13 the time the whistleblower acquired the original
14 information submitted to FinCEN, a member,
15 officer, or employee of—

16 “(i) an appropriate regulatory agency;

17 “(ii) the Department of Justice;

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

19 “(iv) a law enforcement organization;

20 “(B) to any whistleblower who is convicted
21 of a criminal violation, or who the Secretary
22 has a reasonable basis to believe committed a
23 criminal violation, related to the judicial or ad-
24 ministrative action for which the whistleblower

1 otherwise could receive an award under this sec-
2 tion;

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

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

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

16 “(d) REPRESENTATION.—

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

20 “(2) REQUIRED REPRESENTATION.—

21 “(A) IN GENERAL.—Any whistleblower
22 who anonymously makes a claim for an award
23 under subsection (b) shall be represented by
24 counsel if the whistleblower anonymously sub-

1 mits the information upon which the claim is
2 based.

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

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

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

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

“5323A. Whistleblower incentives.”.

4 **SEC. 7207. CERTAIN VIOLATORS BARRED FROM SERVING**
5 **ON BOARDS OF UNITED STATES FINANCIAL**
6 **INSTITUTIONS.**

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

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

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

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

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

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

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

3 **SEC. 7208. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
4 **CRECY ACT VIOLATORS.**

5 (a) IN GENERAL.—Section 5321 of title 31, United
6 States Code, as amended by section 7208, is further
7 amended by adding at the end the following:

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

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

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

3 **SEC. 7209. JUSTICE ANNUAL REPORT ON DEFERRED AND**
4 **NON-PROSECUTION AGREEMENTS.**

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

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

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

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

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

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

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

7 **SEC. 7210. RETURN OF PROFITS AND BONUSES.**

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

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

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

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

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

8 **SEC. 7211. APPLICATION OF BANK SECRECY ACT TO DEAL-**
9 **ERS IN ANTIQUITIES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **SEC. 7212. GEOGRAPHIC TARGETING ORDER.**

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

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

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

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

5 **SEC. 7213. STUDY AND REVISIONS TO CURRENCY TRANS-**
6 **ACTION REPORTS AND SUSPICIOUS ACTIVITY**
7 **REPORTS.**

8 (a) CURRENCY TRANSACTION REPORTS.—

9 (1) CTR INDEXED FOR INFLATION.—

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

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

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

7 (2) GAO CTR STUDY.—

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

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

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

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

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

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

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

12 (b) MODIFIED SARs STUDY AND DESIGN.—

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

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

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

- 4 (i) seasoned business customers;
5 (ii) financial technology (Fintech)
6 firms;
7 (iii) structuring transactions; and
8 (iv) any other customer or transaction
9 that may be appropriate for a modified
10 SAR; and

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

- 16 (i) modifying thresholds;
17 (ii) shortening forms;
18 (iii) combining Bank Secrecy Act
19 forms;
20 (iv) filing reports in periodic batches;
21 and
22 (v) any other method that may reduce
23 the regulatory burden.

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

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

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

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

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

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

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

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

1 (2) FEDERAL FUNCTIONAL REGULATOR.—The
2 term “Federal functional regulator” has the mean-
3 ing given that term under section 7103.

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

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

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

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

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

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

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

8 **SEC. 7214. STREAMLINING REQUIREMENTS FOR CURRENCY**
9 **TRANSACTION REPORTS AND SUSPICIOUS**
10 **ACTIVITY REPORTS.**

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

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

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

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

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

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

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

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

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

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

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

9 (1) FEDERAL FUNCTIONAL REGULATOR.—The
10 term “Federal functional regulator” has the mean-
11 ing given that term under section 7103.

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

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

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

3 **SEC. 7301. ENCOURAGING INNOVATION IN BSA COMPLI-**
4 **ANCE.**

5 Section 5318 of title 31, United States Code, as
6 amended by section 7202, is further amended by adding
7 at the end the following:

8 “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

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

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

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

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

9 **SEC. 7302. INNOVATION LABS.**

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

13 **“§ 5333. Innovation Labs**

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

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

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

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

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

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

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

10 “(4) to develop metrics of success.

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

15 “(e) DEFINITIONS.—In this section:

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

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

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

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

“5333. Innovation Labs.”.

6 **SEC. 7303. INNOVATION COUNCIL.**

7 (a) IN GENERAL.—Subchapter II of chapter 53 of
8 Title 31, United States Code, as amended by section 7302,
9 is further amended by adding at the end the following:

10 **“§ 5334. Innovation Council**

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

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

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

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

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

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

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

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

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

“5334. Innovation Council.”.

19 **SEC. 7304. TESTING METHODS RULEMAKING.**

20 (a) IN GENERAL.—Section 5318 of title 31, United
21 States Code, as amended by section 7301, is further
22 amended by adding at the end the following:

23 “(q) TESTING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 7305. FINCEN STUDY ON USE OF EMERGING TECH-**
2 **NOLOGIES.**

3 (a) STUDY.—

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

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

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

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

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

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

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

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

17 (2) with respect to each of subparagraphs (A),
18 (B) and (C) of subsection (a)(1), any best practices
19 or significant concerns identified by the Director,
20 and their applicability to AI, digital identity tech-
21 nologies, blockchain technologies, and other innova-
22 tive technologies with respect to United States ef-
23 forts to combat money laundering and other forms
24 of illicit finance; and

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

9 **SEC. 7306. DISCRETIONARY SURPLUS FUNDS.**

10 The dollar amount specified under section 7(a)(3)(A)
11 of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is
12 reduced by \$37,000,000.

