AMENDMENT TO THE RULES COMMITTEE PRINT
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OFFERED BY MS. OCASIO-CORTEZ OF NEW YORK

Add at the end of title LIV of division E the following:

SEC. 5403. DUE DILIGENCE FOR UNITED STATES BANKING ACCOUNTS INVOLVING DOMESTIC POLITICALLY EXPOSED PERSONS.

(a) FINDINGS.—The Congress finds the following:

(1) Politically exposed persons or PEPs are individuals entrusted with or having held prominent public functions and their family members and close associates. The PEPs designation applies to a class of people who, given their higher level of access to political decision making and influence, are recognized as posing a higher risk for money laundering and corruption.

(2) In the case of domestic PEPs, the risk also includes the potential of bribery for foreign illicit foreign influence peddling. Such malign influence as a foreign policy tactic has been shown to have increased exponentially over the last decade. The German Marshall Fund found in its report “Covert For-
eign Money: Financial Loopholes Exploited by Authoritarians to Fund Political Interference in Democracies” that in the last few years, the United States has become “the most common target of malign finance—hit more than 25 times”.

(3) The PEPs designation is used by financial institutions, and in some countries, by non-financial businesses and persons (DNFBPs), who are required under anti-money laundering and counter-terrorism jurisprudence to conduct customer due diligence when a new or existing customer seeks to conduct certain regulated financial transactions.

(4) In the most recent (2016) Financial Action Task Force (FATF) mutual evaluation of the United States, the United States was critiqued for only having a foreign, not domestic, PEP classification that requires financial institutions to conduct additional customer due diligence.

(5) The FATF guidance indicates that financial institutions and DNFBPs “must take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP, and then assess the risk of the business relationship. For higher risk business relationships with domestic PEPs. . . fi-
nancial institutions should take additional measures consistent with those applicable to foreign PEPs.”.

(6) The U.S. Department of the Treasury’s May 2022 “National Strategy for Combating Terrorist and Other Illicit Financing”, found that “... corruption at home and abroad undermines the rule of law and transparency, erodes public trust in key institutions, and can allow authoritarian leaders to hide their illicit wealth and undermine global security and stability.”.

(7) This is also supported by Treasury’s “Anti-Money Laundering and Countering the Financing of Terrorism National Priorities” from June 2021, which identified corruption as one of eight predicate crimes associated with money laundering: “As explained in the National Security Study Memorandum issued by President Biden on June 3, 2021, corruption fuels instability and conflict and undermines economic growth. It has been estimated that corruption reduces global gross domestic product by between 2 and 5 percent. Corruption, both domestic and foreign, threatens U.S. national security by eroding citizens’ faith in government, distorting economies, and weakening democratic institutions.”.
(b) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

“(r) DUE DILIGENCE FOR UNITED STATES BANKING ACCOUNTS INVOLVING DOMESTIC POLITICALLY EXPOSED PERSONS.—

“(1) DUE DILIGENCE POLICIES, PROCEDURES, AND CONTROLS.—

“(A) IN GENERAL.—Each financial institution that establishes, maintains, administers, or manages a banking account for a domestic politically exposed person, including a domestic politically exposed person residing outside of the United States, shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering and corruption through those accounts.

“(B) POLICIES, PROCEDURES, AND CONTROLS.—The enhanced due diligence policies, procedures, and controls required under subparagraph (A) shall, at a minimum, ensure that a financial institution takes reasonable steps to conduct enhanced scrutiny of a banking account
described under subparagraph (A) to guard against money laundering and corruption and report any suspicious transactions under subsection (g).

“(C) Risk-based controls.—In identifying, monitoring, and designing controls for banking accounts and transactions under this paragraph, a financial institution shall ensure such controls are risk-based, in order to account for the fact that risks presented by domestic politically exposed persons vary by customer, product, service, location, and industry.

“(2) Minimum standards for banking accounts.—If a banking account is requested or maintained by, or on behalf of, a domestic politically exposed person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps—

“(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and corruption and report any suspicious transactions under subsection (g); and
“(B) to conduct enhanced scrutiny of such account, that is reasonably designed to detect and report transactions that may involve the proceeds of corruption.

“(3) Definitions.—

“(A) Domestic politically exposed person.—In this subsection:

“(i) In general.—The term ‘domestic politically exposed person’ means—

“(I) the President and the Vice President of the United States;

“(II) a current or former elected official or politically-appointed official in the executive (including the military), legislative, or judicial branch of the United States, regardless of whether such official is elected or not;

“(III) a senior official of a major domestic political party;

“(IV) a senior executive of a domestic, Government-owned commercial enterprise;

“(V) an immediate family member of an individual described under subclause (I), (II), (III), or (IV); and
“(VI) any individual publicly known (or actually known by the relevant financial institution) to be a close personal or close professional associate of an individual described under subclause (I), (II), (III), or (IV).

“(ii) Rule of application.—

“(I) In general.—Clause (i)(II) shall only apply to an individual who serves as an elected or appointed official after the effective date of the rules issued by the Secretary of the Treasury to carry out this subsection.

“(II) Sense of Congress.—It is the sense of Congress that financial institutions should be aware of the increased money laundering and corruption risks associated with individuals who are former elected or politically-appointed officials, even if such an individual is excluded from the definition of a domestic politically exposed person by reason of subclause (I).
“(B) IMMEDIATE FAMILY MEMBER.—With respect to an individual, the term ‘immediate family member’ means the individual’s spouse, parents, siblings, spouse’s parents or siblings, and children, whether through consanguinity, adoption, marriage, or similar civil forms of partnership.”.

(c) RULEMAKING.—Not later than 360 days after the date of enactment of this Act, the Secretary of the Treasury, acting through the Director of the Financial Crimes Enforcement Network and in consultation with the Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)) and relevant State financial regulators, shall issue rules to carry out subsection (r) of section 5318 of title 31, United States Code, as added by subsection (b).

(d) DISCRETIONARY SURPLUS FUND.—

(1) IN GENERAL.—Subparagraph (A) of section 7(a)(3) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is amended by reducing the dollar figure described in such subparagraph by $2,540,000.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on September 30, 2022.