

AMENDMENT TO THE RULES COMMITTEE PRINT

117-54

OFFERED BY MS. OCASIO-CORTEZ OF NEW YORK

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

1 **SEC. 5403. DUE DILIGENCE FOR UNITED STATES BANKING**
2 **ACCOUNTS INVOLVING DOMESTIC POLITI-**
3 **CALLY EXPOSED PERSONS.**

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

5 (1) Politically exposed persons or PEPs are in-
6 dividuals entrusted with or having held prominent
7 public functions and their family members and close
8 associates. The PEPs designation applies to a class
9 of people who, given their higher level of access to
10 political decision making and influence, are recog-
11 nized as posing a higher risk for money laundering
12 and corruption.

13 (2) In the case of domestic PEPs, the risk also
14 includes the potential of bribery for foreign illicit
15 foreign influence peddling. Such malign influence as
16 a foreign policy tactic has been shown to have in-
17 creased exponentially over the last decade. The Ger-
18 man Marshall Fund found in its report “Covert For-

1 eign Money: Financial Loopholes Exploited by Au-
2 thoritarians to Fund Political Interference in De-
3 mocracies” that in the last few years, the United
4 States has become “the most common target of ma-
5 lign finance—hit more than 25 times”.

6 (3) The PEPs designation is used by financial
7 institutions, and in some countries, by non-financial
8 businesses and persons (DNFBPs), who are re-
9 quired under anti-money laundering and counter-ter-
10 rorism jurisprudence to conduct customer due dili-
11 gence when a new or existing customer seeks to con-
12 duct certain regulated financial transactions.

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

19 (5) The FATF guidance indicates that financial
20 institutions and DNFBPs “must take reasonable
21 measures to determine whether a customer or bene-
22 ficial owner is a domestic PEP, and then assess the
23 risk of the business relationship. For higher risk
24 business relationships with domestic PEPs. . . fi-

1 nancial institutions should take additional measures
2 consistent with those applicable to foreign PEPs.”.

3 (6) The U.S. Department of the Treasury’s
4 May 2022 “National Strategy for Combating Ter-
5 rorist and Other Illicit Financing”, found that “. . .
6 corruption at home and abroad undermines the rule
7 of law and transparency, erodes public trust in key
8 institutions, and can allow authoritarian leaders to
9 hide their illicit wealth and undermine global secu-
10 rity and stability.”.

11 (7) This is also supported by Treasury’s “Anti-
12 Money Laundering and Countering the Financing of
13 Terrorism National Priorities” from June 2021,
14 which identified corruption as one of eight predicate
15 crimes associated with money laundering: “As ex-
16 plained in the National Security Study Memo-
17 randum issued by President Biden on June 3, 2021,
18 corruption fuels instability and conflict and under-
19 mines economic growth. It has been estimated that
20 corruption reduces global gross domestic product by
21 between 2 and 5 percent. Corruption, both domestic
22 and foreign, threatens U.S. national security by
23 eroding citizens’ faith in government, distorting
24 economies, and weakening democratic institutions.”.

1 (b) IN GENERAL.—Section 5318 of title 31, United
2 States Code, is amended by adding at the end the fol-
3 lowing:

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

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

9 “(A) IN GENERAL.—Each financial institu-
10 tion that establishes, maintains, administers, or
11 manages a banking account for a domestic po-
12 litically exposed person, including a domestic
13 politically exposed person residing outside of
14 the United States, shall establish appropriate,
15 specific, and, where necessary, enhanced, due
16 diligence policies, procedures, and controls that
17 are reasonably designed to detect and report in-
18 stances of money laundering and corruption
19 through those accounts.

20 “(B) POLICIES, PROCEDURES, AND CON-
21 TROLS.—The enhanced due diligence policies,
22 procedures, and controls required under sub-
23 paragraph (A) shall, at a minimum, ensure that
24 a financial institution takes reasonable steps to
25 conduct enhanced scrutiny of a banking account

1 described under subparagraph (A) to guard
2 against money laundering and corruption and
3 report any suspicious transactions under sub-
4 section (g).

5 “(C) RISK-BASED CONTROLS.—In identi-
6 fying, monitoring, and designing controls for
7 banking accounts and transactions under this
8 paragraph, a financial institution shall ensure
9 such controls are risk-based, in order to ac-
10 count for the fact that risks presented by do-
11 mestic politically exposed persons vary by cus-
12 tomer, product, service, location, and industry.

13 “(2) MINIMUM STANDARDS FOR BANKING AC-
14 COUNTS.—If a banking account is requested or
15 maintained by, or on behalf of, a domestic politically
16 exposed person, then the due diligence policies, pro-
17 cedures, and controls required under paragraph (1)
18 shall, at a minimum, ensure that the financial insti-
19 tution takes reasonable steps—

20 “(A) to ascertain the identity of the nomi-
21 nal and beneficial owners of, and the source of
22 funds deposited into, such account as needed to
23 guard against money laundering and corruption
24 and report any suspicious transactions under
25 subsection (g); and

1 “(B) to conduct enhanced scrutiny of such
2 account, that is reasonably designed to detect
3 and report transactions that may involve the
4 proceeds of corruption.

5 “(3) DEFINITIONS.—

6 “(A) DOMESTIC POLITICALLY EXPOSED
7 PERSON.—In this subsection:

8 “(i) IN GENERAL.—The term ‘domes-
9 tic politically exposed person’ means—

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

12 “(II) a current or former elected
13 official or politically-appointed official
14 in the executive (including the mili-
15 tary), legislative, or judicial branch of
16 the United States, regardless of
17 whether such official is elected or not;

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

20 “(IV) a senior executive of a do-
21 mestic, Government-owned commercial
22 enterprise;

23 “(V) an immediate family mem-
24 ber of an individual described under
25 subclause (I), (II), (III), or (IV); and

1 “(VI) any individual publicly
2 known (or actually known by the rel-
3 evant financial institution) to be a
4 close personal or close professional as-
5 sociate of an individual described
6 under subclause (I), (II), (III), or
7 (IV).

8 “(ii) RULE OF APPLICATION.—

9 “(I) IN GENERAL.—Clause (i)(II)
10 shall only apply to an individual who
11 serves as an elected or appointed offi-
12 cial after the effective date of the
13 rules issued by the Secretary of the
14 Treasury to carry out this subsection.

15 “(II) SENSE OF CONGRESS.—It
16 is the sense of Congress that financial
17 institutions should be aware of the in-
18 creased money laundering and corrup-
19 tion risks associated with individuals
20 who are former elected or politically-
21 appointed officials, even if such an in-
22 dividual is excluded from the defini-
23 tion of a domestic politically exposed
24 person by reason of subclause (I).

1 “(B) IMMEDIATE FAMILY MEMBER.—With
2 respect to an individual, the term ‘immediate
3 family member’ means the individual’s spouse,
4 parents, siblings, spouse’s parents or siblings,
5 and children, whether through consanguinity,
6 adoption, marriage, or similar civil forms of
7 partnership.”.

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

17 (d) DISCRETIONARY SURPLUS FUND.—

18 (1) IN GENERAL.—Subparagraph (A) of section
19 7(a)(3) of the Federal Reserve Act (12 U.S.C.
20 289(a)(3)(A)) is amended by reducing the dollar fig-
21 ure described in such subparagraph by \$2,540,000.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect on September 30,
24 2022.

