

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

April 12, 2021

The Honorable Mike Quigley, Chairman
Financial Services and General
Government Subcommittee
Committee on Appropriations
Washington, D.C. 20515

The Honorable Steve Womack, Ranking Member
Financial Services and General
Government Subcommittee
Committee on Appropriations
Washington, D.C. 20515

Dear Chairman Quigley and Ranking Member Womack:

I write to urge a substantial increase of not less than \$74.3 million in new funding for the Financial Crimes Enforcement Network (FinCEN) to support the initial stages of the landmark reforms codified in the bipartisan Anti-Money Laundering Act of 2020 (AMLA) and the Corporate Transparency Act (CTA), enacted in the FY2021 National Defense Authorization Act (Public Law 116-283). I strongly support this implementation funding request and hope that you will include this funding in any upcoming supplemental appropriations bill to be considered in the House.

On January 1, 2021, with overwhelming bipartisan support, Congress overrode a Presidential veto to enact AMLA, CTA, and other important anti-money laundering measures. As noted by Transparency International's U.S. Office, "This is the first significant update to our anti-money laundering laws in twenty years, and one of the most important anti-corruption measures ever passed by the U.S. Congress."¹ The Bank Policy Institute shared that, "This legislation warns the world that the U.S. will stop human traffickers, terrorists, and other global criminals in their tracks when they attempt to infiltrate the financial system."²

To implement the activities mandated by these laws, the Treasury Department has estimated that the minimum amount of new funding necessary to implement this measure in FY 2021 is \$74.3 million; I have enclosed the Department's budget outline for these expenses as Appendix A.

The Corporate Transparency Act (CTA) requires all covered companies formed or registered in the United States to provide information to FinCEN on their ultimate beneficial owners (UBOs). FinCEN is, in turn, required to create and manage a database to maintain this UBO information and to provide access to the data, upon a qualified request, to key federal, state, and tribal law enforcement agencies, regulators, and federal national security and intelligence officials.

¹ [Historic Anti-Corruption Measures Become Law](#) Transparency International-U.S. Office (Jan. 1, 2021)

² [BPI Applauds House Passage of Legislation To Reform the Anti-Money Laundering Framework and End Anonymous Shell Companies](#) Bank Policy Institute (Dec. 9, 2020)

Financial institutions seeking to confirm related customer information to facilitate their regulatory-required Customer Due Diligence process will also have access to the information.

The CTA's requirement to have Treasury collect beneficial ownership information sets for the first time a clear federal standard for incorporation practices; protects vital national security interests; protects interstate and foreign commerce; better enables critical national security, intelligence, and law enforcement investigations; and will finally, after many years, bring the United States into compliance with international AML and Countering the Financing Terrorism (CFT) standards and catch up to partner countries that also have sophisticated financial sectors. The Act requires that beneficial ownership information collected be treated as sensitive, non-public information and allows it to be made available only to authorized authorities, subject to effective safeguards and controls. FinCEN must maintain this information in a new, secure, non-public database, utilizing information security programs and protocols that are appropriate to protect non-classified information systems at the highest security level. The agency must also take all steps, including regular auditing, to ensure that government authorities accessing the beneficial ownership information do so only for authorized purposes consistent with the law.

Similarly, the Anti-Money Laundering Act of 2020 (AMLA) strengthens, streamlines, and adds America's AML/CFT regime. Its provisions to close money laundering loopholes, enhance FinCEN operations, broaden information sharing, protect whistleblowers, enforce compliance, and promote innovation dramatically improve America's capabilities to fight financial crime. AMLA requires FinCEN to establish a small network of domestic liaisons across the country to bolster consultation and coordination with industry, law enforcement, and other stakeholders. It also directs the appointment of additional attachés and foreign Financial Intelligence Unit liaisons to work at U.S. embassies or in foreign government facilities, establishing closer relationships with foreign intelligence and finance ministry officials and regulators, coordinating with Department of Justice officials posted in embassies, and providing other support to Treasury efforts to combat illicit finance.

The AMLA further requires the Secretary to develop public AML priorities and requires regulators to examine based, in part, on these priorities. It requires FinCEN to better track Bank Secrecy Act (BSA) information used to support law enforcement investigations and to enhance communication with financial institutions and state and federal supervisors, including by bolstering AML training programs. The Act amends FinCEN's statutory duties, expands its coordination and cooperation with tribal law enforcement, and clarifies that the agency's statutory duties and powers now include supporting intelligence and counterintelligence activities to protect against all forms of terrorism. The law also requires the development of Treasury-led government-wide strategies to combat money laundering by the People's Republic of China; to address the tens, if not hundreds, of billions of U.S. tax dollars lost each year to trade-based money laundering; and to address the de-risking of charities and others that have experienced reduced access to cross-border financial services, in part due to AML/CFT risk concerns.

Effective implementation of these new mandates, coupled with the many additional duties that these laws impose on FinCEN and Treasury offices, will require a substantial and sustained investment of new resources. I have attached Appendix B, a section-by-section summary of the

bill to provide a more detailed sense of the many new requirements and FinCEN duties that they contain.

I understand that full, robust implementation of these measures would require approximately \$98.5 million for FY 2021. After consulting with OMB, FinCEN has scaled back a few of its requirements and proposed delaying some of the hiring required by the new law, including the FIU and domestic liaison staff and other mission support staff. It is also taking other steps to constrain spending. Those changes have resulted in the new, reduced allocation requirement of \$74.3 million outlined in the attached justification.

As the chair of the authorizing committee, I fully support Treasury's request and strongly urge approval of supplemental funding of not less than \$74.3 million. I believe that these funds are critical to properly implement the requirements of the AMLA and CTA. If additional funds are available, in order to provide maximal hiring flexibility to FinCEN in FY21, I would also support an expanded appropriation of \$98.5 million in new funding for FY21.

Thank you for your assistance in this matter. I look forward to working with you to ensure the sufficient funding to enable the Treasury Department to promptly and effectively implement these important new national security and law enforcement measures. If you or your staff have any questions about our request, please feel free to have your staff contact Danielle Camner Lindholm of Chairwoman Waters' staff at 202-365-9487.

Sincerely,



MAXINE WATERS
Chairwoman

cc: The Honorable Rosa L. DeLauro, Chairwoman
The Honorable Kay Granger, Ranking Member
House Committee on Appropriations
The Honorable Patrick McHenry, Ranking Member,
Committee on Financial Services

Enclosures:

Appendix A – Treasury Cost Estimates for Implementing AMLA and CTA
Appendix B – Section-by-Section Summary of AMLA and CTA

Appendix A – Treasury Cost Estimates for Implementing AMLA and CTA

FinCEN - FY 2021 NDAA Cost Estimate (AML Act and CTA)													
FY 2021													
Requirements By Act	FY21 FTEs (revised 2/18/21)	FY21 FTE by Division							FY21 RECURRING COSTS		FY21 ONE TIME COSTS	FY21 Total Estimated Startup Costs (revised 2/18/21)	Statute Citations
		ED	GID	ID	MD	PD	SOD	TD	Personnel costs	Non-personnel costs	Non-personnel costs		
Anti-Money Laundering Act of 2020													
BSA Advisory Group (BSAAG) Subcommittee on Innovation & Technology; Subcommittee on Information Security & Confidentiality.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -	\$ -	\$ 200,000	\$ 200,000	Sections 6207, 6302
Emerging Technology Experts	2.0	0.0	0.0	1.0	1.0	0.0	0.0	0.0	\$ 544,080	\$ -	\$ -	\$ 217,632	Section 6101(c), 6304
Foreign Financial Investigation Unit Liaisons	3.0	0.0	0.0	0.0	1.0	0.0	2.0	0.0	\$ 816,120	\$ -	\$ -	\$ 326,448	Section 6108
Information Security Officer and other Mission Support for AMLA	4.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 1,088,160	\$ -	\$ 200,000	\$ 635,264	Sections 6104, 6303, 6306
Writing New AMLA Regulations	7.0	0.0	0.0	0.0	0.0	7.0	0.0	0.0	\$ 1,904,280	\$ -	\$ -	\$ 761,712	Sections 6101(4)(D), 6110(b), 6201(e), 6202, 6204(a)-(b), 6209, 6212, 6215, 6216(a)-(b), 6310, and 6314. (Regulatory support required under sections 6101(4)(E), 6103, 6205, 6305, and 6306 will be performed by existing personnel at no additional cost).
Enforcement of New AMLA Regulations	14.0	14.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 3,808,560	\$ -	\$ -	\$ 1,523,424	Sections 6110(b), 6314 (administration of other regulations will be performed by existing personnel at no additional cost)
Congressional and Other Reporting Requirements, Expansion of FinCEN Reporting Authorities	8.0	0.0	1.0	2.0	1.0	4.0	0.0	0.0	\$ 2,176,320	\$ -	\$ 1,050,000	\$ 1,920,528	Sections 6101(4)(A), 6102(c), 6103, 6107(g)(7), 6201(a)-(d), 6203, 6204(c), 6206, 6210, 6216(c) and 6308. (Additional reporting activity required under sections 6105(c), 6110(c)-(d), 6211(e), 6211(f), 6212, 6214, 6215(4), and 6305 will be performed by existing personnel at no additional cost.)
Annual BSA Compliance Training Program	7.0	7.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 1,904,280	\$ -	\$ -	\$ 761,712	Section 6307
Subtotal, Anti-Money Laundering Act	45.0	21.0	1.0	3.0	7.0	11.0	2.0	0.0	\$ 12,241,800	\$ -	\$ 1,450,000	\$ 6,346,720	
Corporate Transparency Act and Other Requirements													
Beneficial Ownership IT Systems and Data Management	5.0	0.0	0.0	0.0	1.0	0.0	0.0	4.0	\$ 1,360,200	\$ 28,600,000	\$ 33,000,000	\$ 62,144,080	Section 6403
Writing New CTA Regulations	2.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	\$ 544,080	\$ -	\$ -	\$ 217,632	Section 6403
Administration of New CTA Regulations	4.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	\$ 1,088,160	\$ -	\$ -	\$ 435,264	Section 6403
Reporting Requirements	1.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0	\$ 272,040	\$ -	\$ 4,800,000	\$ 4,908,816	Sections 6403, 6502
Non-CTA Provisions	2.0	0.0	2.0	0.0	0.0	0.0	0.0	0.0	\$ 544,080	\$ -	\$ -	\$ 217,632	Section 9714
Subtotal, Corporate Transparency Act	14.0	0.0	2.0	0.0	1.0	3.0	4.0	4.0	\$ 3,808,560	\$ 28,600,000	\$ 37,800,000	\$ 67,923,424	
NDAA Total Cost	59.0	21.0	3.0	3.0	8.0	14.0	6.0	4.0	\$ 16,050,360	\$ 28,600,000	\$ 39,250,000	\$ 74,270,144	

Appendix B – Section-by-Section Summary

The Anti- Money Laundering Act and Corporate Transparency Act of 2021

Section 6001. Short title: The Anti- Money Laundering Act of 2020

Section 6002. Purposes: Outlines statutory purposes of the bill, including improving coordination among the regulatory and law enforcement agencies tasked with anti- money laundering (AML) and countering the financing of terrorism (CFT) authorities; establishing uniform beneficial ownership (BO) reporting requirements to improve transparency for national security, intelligence, and law enforcement agencies concerning corporate structures and insight into the flow of illicit funds through those structures; discouraging the use of shell corporations as a tool to disguise illicit funds; reinforcing the use of risk-based AML and CFT policies, procedures, and controls by financial institutions; assisting national security, intelligence, and law enforcement agencies with the pursuit of illicit activity; protecting the national security of the United States (US); and establishing a secure, nonpublic database at the Financial Crimes Enforcement Network (FinCEN) for BO information.

Section 6003. Definitions: Enumerates terms used throughout the bill such as the Bank Secrecy Act (BSA), Electronic fund transfer, Federal functional regulator, financial agency, FinCEN, financial institution, Secretary, and state bank supervisor, among others.

TITLE LI: STRENGTHENING TREASURY FINANCIAL INTELLIGENCE, ANTI-MONEY LAUNDERING, AND COUNTER THE FINANCING OF TERRORISM PROGRAMS

Section 6101. Establishment of National Exam and Supervision Priorities: Amends the BSA to require financial institutions to continue to implement risk-based AML programs that combat terrorist financing. Requires the Secretary of the Treasury (Secretary) to implement a rule establishing “public priorities” for AML and CFT policy that are to be updated at least every four years and on which financial institutions’ incorporation of these priorities will be measured as one factor among others during supervisory examinations. Facilitates enhanced communication with financial institutions and state and federal supervisors, and requires the Department of the Treasury (Treasury) to maintain both a money laundering and terror financing investigations team capable of identifying and tracking financial crime networks, and identifying emerging threats to support Federal civil and criminal investigations. Also provides for an emerging technology team to encourage the development of and identify emerging technologies to help the United States government and financial institutions to target resources and improve AML and CFT procedures.

Section 6102. Strengthening FinCEN: The mission of FinCEN is to safeguard the financial system from financial crime by working with their partners in Federal, State, local, Tribal and other foreign law enforcement authorities. Amends FinCEN’s statutory duties and expands information sharing, coordination and cooperation with tribal law enforcement, and clarifies that FinCEN’s statutory duties and powers include supporting intelligence and counterintelligence activities to protect against all forms of terrorism (as opposed to only “international” terrorism).

Updates the BSA's definition of a covered "financial institution", and modifies the BSA's definition of "money transmitting business." Expands the Secretary's authorities under the BSA to require financial institutions and nonfinancial businesses to collect and report certain information to guard against money laundering, terrorist financing, or other forms of illicit finance-related activity.

Section 6103. FinCEN Exchange: Codifies the FinCEN Exchange within FinCEN to facilitate voluntary public-private information-sharing between law enforcement, financial institutions, and FinCEN to combat money laundering, terrorism financing, organized crime and other financial crimes; protect the financial system from illicit use; and promote national security. Requires FinCEN to establish procedures for the protection of information shared and exchanged by FinCEN with the private sector, and guards against the use of such shared information for reasons other than its intended purpose. Requires the Secretary to submit to Congress within one year, and biennially thereafter for a total of five years, a report on efforts undertaken by and recommendations to strengthen the efforts of the Exchange. Also provides authority for the Secretary to issue a regulation on ways to appropriately protect confidential information shared within the Exchange.

Section 6104. Interagency AML and CFT Personnel Rotation Program: Requires the Secretary and representatives of the federal functional regulators and other federal agencies to develop a program enabling the inter-agency rotation of personnel among positions related to AML and CFT efforts.

Section 6105. Terrorism and Financial Intelligence Special Hiring Authority: Expands the Secretary's authority to appoint candidates and transfer employees of the Office of Terrorism and Financial Intelligence (OTFI) to positions in the competitive service to support the functions of OTFI. Requires the Secretary to submit to Congress within one year and biennially thereafter for a total of five years a report on the utilization of such special hiring authorities.

Section 6106. Treasury Attaché Program: Provides statutory authorization for the existing Treasury Attaché Program, whereby the Secretary appoints Treasury employees with BSA/AML expertise to work at U.S. embassies to help execute the financial and economic policy of the U.S. government and the international fight against terrorism, money laundering and other forms of illicit finance. Requires the appointment of an additional 6 attachés for worldwide deployment.

Section 6107. Establishment of FinCEN Domestic Liaisons: Establishes an Office of the Domestic Liaison within FinCEN, headed by a Chief Domestic Liaison who is to be appointed by the FinCEN Director to conduct outreach and receive feedback from financial institutions and other parties within specific regions of the United States regarding BSA examinations; promote coordination and consistency between federal financial regulators during such examinations; and periodically make regulatory and legislative recommendations to improve coordination and information sharing. The office is subject to periodic reporting requirements.

Section 6108. Foreign Financial Intelligence Unit Liaisons: Requires the Director of FinCEN to appoint Foreign Financial Intelligence Unit (FIU) Liaisons to work at U.S. embassies or foreign government facilities, establish relationships with officials from foreign intelligence units

and regulators, coordinate with Department of Justice officials posted in embassies, and participate in industry outreach.

Section 6109. Protection of Information Obtained by Foreign Law Enforcement/FIUs: Exempts from Freedom of Information Act (FOIA) requirements records or information exchanged by FinCEN with a foreign law enforcement authority, foreign financial intelligence unit, or foreign AML/CFT authority.

Section 6110. BSA Application to Dealers in Antiquities and Assessment of BSA Application to Dealers in Arts: Directs the Secretary, in coordination with the Director of the FBI, Attorney General, and Secretary of Homeland Security, to perform a study on the facilitation of money laundering and the financing of terrorism through the trade in works of art. The Secretary, in coordination with the Director of the FBI, Attorney General and Homeland Security must submit to Senate Banking and HFSC a report on arts regulation not later than 180 days after enactment of this Act. This section also adds antiquities dealers to the definition of “financial institution” under the BSA, informed by a Treasury review assessing thresholds, scope, geographical location and other considerations to direct the rulemaking.

Section 6111. Increasing Technical Assistance for International Cooperation: Authorizes an increase in appropriations to the Treasury Department for fiscal years 2020-2024 to provide technical assistance to foreign countries and foreign financial institutions that promotes compliance with international standards and best practices for AML and CFT programs. Requires the Secretary to submit to Congress periodic reports on technical assistance provided.

Section 6112. International Coordination: Requires Treasury to coordinate with foreign counterparts to promote stronger AML frameworks and enforcement and requires the Chairman of the National Advisory Council on IMF and Financial Policy to report periodically on US efforts to provide technical assistance.

TITLE LII: MODERNIZING THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM SYSTEM

Section 6201. Annual Reporting Requirements: Requires the Attorney General, in consultation with the Secretary, Federal law enforcement agencies, the Director of National Intelligence, and Heads of other appropriate federal agencies, and federal functional regulators, not later than 1 year after enactment of the Act, and annually thereafter, to provide the Treasury with certain reports regarding the use of data derived from financial institutions under the BSA, and adds that any information that a financial institution receives under this section shall be subject to confidentiality requirements established by the Secretary.

Section 6202. Additional Considerations for Suspicious Activity Reporting Requirements: Provides that in imposing Suspicious Activity Report (SAR) reporting requirements, the Secretary must consider, among other things, whether the reporting is likely to meet the purposes of the BSA, be consistent with the public AML/CFT priorities established by the Secretary, and be as efficient and effective as possible, including appropriately considering any burdens imposed by such requirements. Reports filed under this section must be guided by the

compliance program of a covered financial institution with respect to the BSA. The data and reporting requirements under this section shall be streamlined, including automated processes, in order to reduce burdens on persons required to report.

Section 6203. Law Enforcement Feedback on SARs: Requires FinCEN to periodically solicit feedback from a cross-section of financial institutions on trends in suspicious activities and provide such feedback to appropriate federal and state regulators. FinCEN is required to periodically disclose to financial institutions information related to SARs filed, including patterns and trends in filings, with exceptions.

Section 6204. Streamlining Requirements for CTRs and SARs: Requires the Secretary, in consultation with various relevant stakeholders, to conduct a formal review of the financial institutions' Currency Transaction Report (CTR) and SARs reporting requirements, including processes for submission, regulations implementing the BSA, and any proposed changes to those reports to reduce unnecessary burdens while ensuring the reports continue to serve their intended purpose. Requires a report of the review's findings and determinations to be submitted to Congress, and authorizes a rulemaking, as appropriate, if the Secretary determines one is necessary.

Section 6205. CTR and SAR Thresholds Review: Requires the Secretary in consultation with various relevant law enforcement and other stakeholders to study whether the dollar thresholds for CTR and SAR requirements should be adjusted. Outlines a number of considerations in developing recommendations, including: effects that adjusting thresholds would have on law enforcement, intelligence and national security; costs to be incurred; and if adjusting thresholds would better conform the US to international norms and standards. Public reporting is required under this section.

Section 6206. Sharing of Threat Pattern and Trend Information: Requires the Director of FinCEN to restart publication of the "SAR Activity Review" on at least a semi-annual basis, and in each such publication to provide financial institutions with emerging money laundering and terrorist financing threat pattern and trends information.

Section 6207. Subcommittee on Innovation and Technology: Provides that the BSA Advisory Group shall include a Subcommittee on Innovation and Technology to encourage, support development of, and reduce obstacles to AML and CFT compliance efforts, including by providing for data and patterns and trends analysis to inform those efforts. The Subcommittee consists of the heads of the federal functional regulators, a representative cross-section of financial institutions subject to the BSA, law enforcement, a representative of state bank supervisors and credit union supervisors, and FinCEN. The Subcommittee shall terminate after five years, subject to one-year extensions by the Secretary.

Section 6208. Establishment of BSA Innovation Officers: Requires the appointment of an Innovation Officer within FinCEN and each Federal functional regulator. The officer shall be appointed by, and report to, the Director of FinCEN or the head of the Federal functional regulator, as applicable. The officers must perform various duties including outreach to law enforcement agencies, financial institutions and others with respect to innovative methods,

processes, and new technologies that may assist in compliance with the requirements of the BSA while providing technical assistance or guidance relating to the implementation of responsible innovation and new technology.

Section 6209. Testing Methods Rulemaking: Requires Treasury to issue a rule to specify internal processes designed to facilitate compliance with requirements of the BSA, including the standards by which financial institutions are to test certain technology and related technology processes. It further directs Treasury to focus particularly on using innovative approaches such as machine learning or other enhanced data analytics processes; risk-based testing, oversight, and other risk management approaches prior to and after implementation, to facilitate calibration of relevant systems and prudently evaluate and monitor the effectiveness of their implementation; provides for appropriate data privacy, information security, and other criteria.

Section 6210. Financial Technology Assessment: Requires the Secretary to conduct a financial technology assessment analyzing the impact of financial technology on financial-crimes compliance and to report the assessment's findings to Congress.

Section 6211. Financial Crimes Tech Symposium: Requires the Secretary to periodically convene a global AML and financial-crime symposium to promote greater international collaboration, and facilitate the investigation, development and timely adoption of new technologies aimed at preventing and detecting combat financial crimes and other illicit activities. FinCEN is required to provide a briefing on technological innovation adoption.

Section 6212. Pilot Program on Sharing of Information Related to SARs within a Financial Group: Requires the Secretary, within one year of the bill's enactment, to issue rules establishing a pilot program permitting financial institutions to share information related to SARs with their foreign branches, subsidiaries, and affiliates, unless the relevant branch, subsidiary, or affiliate is in a jurisdiction (1) subject to sanctions the federal government has imposed, or (2) that the Secretary has determined cannot reasonably protect the privacy and confidentiality of such information. The pilot program shall terminate three years after the bill's enactment, subject to a single two-year extension approved by the Secretary.

Section 6213. Sharing of Compliance Resources: Authorizes two or more financial institutions to enter into collaborative arrangements involving the sharing of BSA compliance resources consistent with existing regulatory guidance already provided, and requires the Secretary to carry out an outreach program to identify and provide financial institutions with best practices information involving such arrangements.

Section 6214. Encouraging Information Sharing and Public-Private Partnerships: Requires the Secretary to convene a supervisory team of relevant federal agencies, private sector banking experts, and national security and law enforcement experts to examine strategies to increase public-private sector cooperation for countering proliferation finance and sanctions evasion. The supervisory team is required to meet periodically to advise on strategies to combat risks related to proliferation financing.

Section 6215. Financial Services De-risking: The practice known as de-risking, whereby financial institutions avoid rather than manage the compliance risk under their AML, CFT and sanctions compliance programs, has negatively impacted the ability of nonprofit organizations to conduct life-saving activities around the globe. This section expresses the sense of Congress on the negative effects of financial institution de-risking, requires a GAO study on the causes and effects of de-risking, directs a subsequent review of all GAO analyses and submission to Congress and publication by Treasury of a strategy to reduce de-risking and the adverse consequences related to de-risking.

Section 6216. Review of Regulations and Guidance: Directs the Secretary in consultation with the federal functional regulators and other relevant entities to undertake a formal, one-time review, subject to public comment, of BSA regulations and guidance to ensure appropriate safeguards are in place to protect the financial system from money laundering, terrorist financing, and various other financial crimes; ensure the continuation of highly-useful reports and records; and identify outdated, redundant or unnecessarily burdensome requirements and report their findings to Congress, not later than 1 year after enactment of the Act.

TITLE LIII: IMPROVING ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM COMMUNICATION, OVERSIGHT, AND PROCESSES

Section 6301. Improved Interagency Coordination and Consultation: Requires the Secretary to invite state bank and credit union supervisors to participate in the interagency coordination process of federal depository institution regulators regarding the development of AML regulations affecting state-chartered financial institutions.

Section 6302. Subcommittee on Information Security and Confidentiality: Creates within the BSA Advisory Group a Subcommittee on Information Security and Confidentiality that shall consist of the heads of the federal functional regulators, representatives from financial institutions subject to BSA requirements, law enforcement, and FinCEN. The Subcommittee is to advise the Secretary on information security and confidentiality implications of regulations, guidance, information sharing programs, and the examination for compliance with and enforcement of the provisions of the BSA. The Subcommittee shall terminate five years after the bill's enactment, subject to one-year renewals by the Secretary.

Section 6303. Establishment of BSA Information Security Officers: Requires the appointment of an Information Security Officer within FinCEN and each Federal functional regulator. The officer shall be appointed by, and report to, the Director of FinCEN or the head of the Federal functional regulator, as applicable. The officers must perform various duties including consultation during promulgation of regulations affecting information security or disclosure, information-sharing policies and the protection of information collected by each federal functional regulator under the BSA.

Section 6304. FinCEN Analytical Hub: Provides that FinCEN shall maintain a team of financial experts to identify, track, and trace money-laundering and terrorist-financing networks and respond to reasonable requests for analysis from a Federal agency.

Section 6305. Assessment of BSA No-Action Letters: Requires an assessment by the Director of FinCEN, in consultation with the federal functional regulators, State bank and credit union supervisors, and other federal agencies, on whether to establish a process for issuing no-action letters by FinCEN in response to inquiries concerning the application of the BSA or any other AML or CFT law to specific conduct, which shall include a statement as to whether FinCEN or any relevant federal functional regulator intends to take an enforcement action against the person with respect to such conduct. A report to Congress containing all findings and determinations under this subsection is required not later than 180 days after enactment of this Act, and a rulemaking is authorized if determined appropriate.

Section 6306. Cooperation with Law Enforcement: Provides financial institutions with a safe harbor from adverse supervisory action for complying with law enforcement requests to keep an account or transaction open if a Federal law enforcement agency notifies FinCEN, or a State, Tribal, or local law enforcement agency notifies FinCEN, and FinCEN concurs, with a written request that the financial institution keep that account or transaction open (referred to as a “keep open request”). This section requires that each “keep open letter” include a termination date; provides for recordkeeping; and requires issuance of further guidance from the Secretary, and also makes clear that financial institutions must comply with other BSA reporting obligations.

Section 6307. Training for Examiners on AML and CFT: Requires each federal examiner reviewing BSA compliance to attend appropriate annual training related to AML and CFT activities, as determined by the Secretary.

Section 6308. Obtaining Foreign Bank Records from Banks with U.S. Correspondent Accounts: Authorizes the Secretary or Attorney General to issue a subpoena to a foreign bank that maintains a correspondent account in the US and request records relating to the account that are the subject of certain investigations or proceedings; establishes rules regarding the production of such subpoenaed records, the issuance and service of such subpoenas, relief from such subpoenas, and the enforcement of such subpoenas, including providing for penalties on foreign banks who fail to comply with a subpoena. Requires financial institutions to terminate correspondent relationships with foreign banks upon receipt of written notice from the Secretary or Attorney General concerning noncompliance with such a subpoena. Provides for non-disclosure of a subpoena, and ensures that a covered financial institution will not be liable for termination of a relationship with a non-compliant financial institution.

Section 6309. Additional Damages for Repeat BSA Violators: Allows the Secretary to impose damages for repeat BSA violations in an amount that is not more than the greater of three times the profit gained or loss avoided as a result of the violation, or two times the maximum penalty for the violation.

Section 6310. Certain Violators Barred from Serving on Boards of U.S. Financial Institutions: Prohibits individuals found to have committed an “egregious” BSA violation (a defined term) from serving as a director of a United States financial institution during the ten-year period beginning on the date on which the conviction or judgment is entered. An egregious violation means a criminal violation for which the individual is convicted and for which the maximum term of imprisonment is more than 1 year; and a civil violation which the individual

willfully committed the violation and the violation facilitated money laundering or the financing of terrorism.

Section 6311. Department of Justice Report on Deferred and Non-Prosecution Agreements:

Requires the Attorney General to issue an annual report listing (1) any deferred prosecution agreements and non-prosecution agreements that the Attorney General has entered into, amended or terminated during the previous year related to a violation or suspected violation of the BSA, (2) the justification for each such decision, (3) the factors that were taken into account in determining whether to enter into, amend or terminate each such agreement, and (4) the extent of the Attorney General's coordination with FinCEN prior to making each such decision. This section also provides for a classified annex to the report.

Section 6312. Return of Profits and Bonuses: Provides that persons convicted of BSA violations shall in addition to any other fine, be fined in an amount equal to the greater of the profit gained from such violation, and if such person was a partner, director, officer, or employee of a financial institution at the time the violation occurred, repay to such institution any bonus received during the calendar year in which the violation occurred, or in the calendar year after which the violation occurred.

Section 6313. Prohibition on Concealment of the Source of Assets in Monetary

Transactions: Prohibits knowingly concealing, falsifying, or misrepresenting or attempting to conceal, falsify, or misrepresent from or to a financial institution a material fact concerning the ownership or control of assets involved in a monetary transaction if (1) the person or entity who owns or controls the assets is a senior foreign political figure or their immediate family member or close associate, and (2) the aggregate value of the assets involved in one or more monetary transaction is \$1 million or more. Prohibits knowingly concealing, falsifying, or misrepresenting, or attempting to conceal, falsify, or misrepresent, from or to a financial institution a material fact concerning the source of funds in a monetary transaction that (1) involves an entity found to be a primary money launderer, and (2) violates associated prohibitions or conditions. Imposes a prison sentence of not more than 10 years and a fine of not more than \$1 million for such violations.

Section 6314. Updating Whistleblower Incentives and Protection: Requires the Treasury to pay awards to whistleblowers who provide original information leading to successful enforcement actions for violating the BSA and certain AML requirements and provides for retaliation protections. Outlines criteria for such awards, and whistleblower program processes; provides for anti-retaliation protections for whistleblowers, and establishes an AML and counter-terrorism financing fund from which awards can be made.

TITLE LIV: ESTABLISHING BENEFICIAL OWNERSHIP INFORMATION REPORTING REQUIREMENTS

Section 6401. Short Title: The Corporate Transparency Act

Section 6402. Sense of Congress: Expresses the sense of Congress that federal legislation providing for the collection of beneficial ownership information (BOI) for corporations, limited

liability companies, and similar entities is needed to set a clear, federal standard for State incorporation practices; protect vital United States national security interests; protect interstate and foreign commerce; better enable critical national security, intelligence, and law enforcement investigations of suspect corporations and limited liability companies; to combat money laundering and terrorist finance; and to bring the United States into compliance with international AML and CFT standards. Further expresses that BOI collected is sensitive, nonpublic information and should be available only to authorized government authorities, subject to effective safeguards and controls, to facilitate important national security, intelligence, and law enforcement activities and that the Secretary shall maintain such information in a secure, non-public database, utilizing information security methods and techniques that are appropriate to protect non-classified information systems at the highest security level; and take all steps, including through regular auditing, to ensure that government authorities accessing BOI do so only for authorized purposes consistent with this Section.

Section 6403. Beneficial Ownership Information Reporting Requirements: Defines a range of terms used in this title, including “acceptable identification document,” “applicant,” “beneficial owner,” “director,” “FinCEN,” “FinCEN identifier,” “foreign person,” “Indian tribe” and others.

Definition of Beneficial Owner: The term is defined to mean a natural person who directly or indirectly exercises “substantial control” over a relevant entity, or owns or controls 25% or more of the ownership interests of a covered entity.

Definition of Reporting Company: A reporting company means a corporation, limited liability company, or other similar entity created by the filing of a document with a secretary of state or a similar office under the law of a State or Indian Tribe; or formed under the law of a foreign country and registered to do business in the US by the filing of a document with a secretary of state or a similar office under the law of the State.

Reporting Company Definition Exemptions: Explicitly exempts a broad range of entities (for example, certain depository institutions, credit unions, securities dealers, firms registered with the SEC, insurance companies, public accounting firms, public utilities, non-profits, entities employing more than 20 full-time employees with more than \$5 million in sales and a physical operating presence in the U.S., and subsidiaries of certain exempted entities) that are not required to report their beneficial ownership, generally because they are believed to be otherwise required to report their ownership information to a governmental entity, or for other relevant reasons.

Reporting for Existing Entities: Requires existing entities to comply with the relevant reporting requirements within 2 years of the bill’s effective date of regulations prescribed by FinCEN, effectively granting 3 years for compliance.

Updated Reporting for Changes in BOI: Provides that changes in a relevant entity’s BOI must be reported to FinCEN within 1 year of a change and provides for a Treasury review within two years of the date of enactment regarding whether the time required for ownership updates should be reduced, and provides for incorporation of the conclusions of that review into the regulations.

Required Information: The relevant entities must report the full legal name, date of birth, current residential or business street address, and a unique identifying number from a non-expired passport, personal ID card, or driver's license for each of their beneficial owners or a FinCEN identifier for an individual or legal entity.

FinCEN Identifiers: Provides that FinCEN shall issue a "FinCEN Identifier" to any individual or legal entity who requests one if the individual or legal entity submits all the BOI required, and prescribes that individuals or legal entity can comply with the bill's beneficial ownership reporting requirements by submitting their FinCEN Identifier. Provides that only one FinCEN identifier may be provided to each qualifying individual or entity.

Retention and Disclosure of Beneficial Ownership Information: BOI shall be maintained by FinCEN and kept confidential, except upon receipt of (1) a request, through appropriate protocols, by a federal agency engaged in national security, intelligence, or law enforcement activities, for use in furtherance of such activity; or a state, local, or tribal law enforcement agency if the request is approved by a court of competent jurisdiction (which may include an officer of such a court) and involving a criminal or civil investigation; (2) a request from a Federal agency on behalf of a law enforcement agency, judge, or prosecutor of another country, under certain conditions; (3) a request made by a financial institution subject to customer due diligence requirements with the consent of the reporting company; or (4) a qualifying request made by a Federal functional regulator or other appropriate regulatory agency.

Appropriate Protocols for Requests: Imposes certain information security and confidentiality requirements on BOI provided to the Secretary. Such information provided to a requesting agency shall, at a minimum, be relevant to an authorized investigation, and the scope of the information sought must be appropriately limited. Access to such information must be restricted only to users at the requesting agency meeting specific conditions, including those whose duties require access. The requesting agency must maintain an auditable trail of each request for BOI and an annual audit is required to verify the beneficial ownership received was accessed and used appropriately. The Secretary is required to reject requests not submitted in the appropriate form or manner, and may decline to provide information requested if it is found that the requesting agency has failed to meet certain other requirements, the information is being requested for an unlawful purpose, or other good causes for denial. Authorizes the Secretary to suspend or debar a requesting agency for violations of protocols, and requires the Secretary to maintain information security protections for information reported to FinCEN.

Agency Coordination: Provides that relevant Federal, State, and Tribal agencies, as determined by the Secretary, shall, to the extent practicable, cooperate with and provide information requested by FinCEN for purposes of maintaining an accurate, complete, and highly useful database for BOI.

Notification of Federal Obligations: Requires the Secretary to take reasonable steps to provide notice to persons of their obligations to report BOI under this section, including by causing appropriate informational materials describing such obligations to be included in one or more forms regularly distributed by the Internal Revenue Service, and in informational materials periodically distributed by FinCEN.

State and Indian Tribe Notification of Federal Requirements: Requires states, within two years of enactment, to update their registration processes and notify companies that register or update their registration information of their federal obligations under the bill.

Penalties: Makes it unlawful to willfully provide, or attempt to provide, false or fraudulent BOI to FinCEN or willfully fail to provide complete or updated beneficial ownership to FinCEN. Makes it unlawful for any person to knowingly disclose or knowingly use the BOI. A person who violates this section or the beneficial ownership requirements (BOR) shall be liable to the US for a civil penalty of up to \$500 for each day that a violation continues, and a fine of up to \$10,000, imprisonment for up to two years, or both. Meanwhile, violators of unauthorized disclosure or use rules are liable to the United States for a civil penalty of not more than \$500 for each day the violation continues; and a fine up to \$250,000, or imprisonment of up to five years, or both; or alternative penalties for those involved in violations as a pattern of illegal activity. Provides a safe harbor if any reporting company has reason to believe that any report contains inaccurate information, and voluntarily and promptly submits a report containing corrected information, subject to limitations.

Inspector General Report: Requires the Inspector General of the Treasury to submit to Congress a periodic report that summarizes external comments or complaints and related investigations conducted by the Inspector General related to collection of beneficial ownership and include recommendations to improve the form and manner of the notification, collection and updating processes of the BOR.

Cyber Breach: In the event of a cybersecurity breach that results in substantial unauthorized access and disclosure of sensitive BOI, the Inspector General of the Department of the Treasury shall conduct an investigation into FinCEN cybersecurity practices that, to the extent possible, determines any vulnerabilities within FinCEN information security and confidentiality protocols and provides recommendations for fixing those deficiencies.

Federal Contractors: Requires federal contractors that are subject to the relevant beneficial ownership reporting requirements to include the relevant information as part of any bid or proposal for a contract in excess of a certain threshold.

Revised Customer Due Diligence (CDD) Rule: Provides that FinCEN shall rescind and revise its CDD Rule to take into account the new beneficial-ownership reporting regime provided for in the bill, to provide for certain access to the information contained in the FinCEN database for compliance purposes, and to eliminate any unnecessary and duplicative requirements on financial institutions.

Testimony to Congress: Provides that the Director of FinCEN shall make himself available on an annual basis for five years starting in March 2022 to the Senate Banking Committee and the House Financial Services Committee, or an appropriate subcommittee thereof, to testify on a range of matters related to FinCEN, including those related to the ongoing implementation and enforcement of this measure.

TITLE LV: MISCELLANEOUS

Section 6501. Investigation and Prosecution of Offenses for Violations of the Securities

Laws: Codifies a five-year statute of limitations for disgorgement of ill-gotten gains for securities law violations, and ten years for those securities law offenses involving scienter-based violations.

Section 6502. GAO and Treasury Studies on Beneficial Ownership Information Reporting

Requirements: Requires the Comptroller General to conduct a study and submit to Congress a report evaluating the effectiveness of incorporation practices implemented in and amendments made by this division; reviewing the regulated status, related reporting requirements, quantity, and structure of each class of corporation, limited liability company, and similar entities that have been explicitly excluded from the definition of “reporting company”; and on certain other legal entities, including partnerships, trusts and other legal entities.

Section 6503. GAO Study on Feedback Loops: Under this section, “feedback loop” means feedback provided by the U.S. Government to relevant parties. Requires the Comptroller General to conduct a study on best practices within the U.S. Government regarding feedback loops on the use and usefulness of personally identifiable information, sensitive but unclassified data, or similar information provided by parties to U.S. Government users of information and data, and any practice or standard inside or outside the U.S. for providing feedback through sensitive information and public-private partnership information sharing efforts.

Section 6504. GAO CTR Study and Report: Requires the Comptroller General of the United States commence a study of currency transaction reports, including a review, carried out in consultation with the Secretary, FinCEN, the Attorney General, the State attorneys general, and State, Tribal, and local law enforcement, of the effectiveness of the currency transaction reporting regime in effect as of the date of the study; an analysis of the importance of currency transaction reports to law enforcement; and an analysis of the effects of raising the currency transaction report threshold.

Section 6505. GAO Studies on Trafficking: Requires the Comptroller General to conduct two concurrent studies. The first on the major trafficking routes used by transnational criminal organizations, terrorists, and to what extent the trafficking routes for people, drugs, weapons, cash, child sexual exploitation materials, or other illicit goods are similar, related, or contiguous; the nexus between the identities and finances of trafficked persons and fraud; and other criteria to identify techniques and patterns of transactions that may involve the proceeds of trafficking. The second on how a range of payment systems and methods, including virtual currencies, are used to facilitate human and drug trafficking. The GAO is required to review online marketplaces, financial payment methods, and virtual currencies, among other areas. Incorporates the key provisions of House Division L, the Stopping Trafficking, Illicit Flows, Laundering and Exploitation Act of 2020 (“STIFLE” Act) into these reports.

Section 6506. Treasury Study and Report on Trade-Based Money Laundering: Requires the Secretary to conduct a study on trade-based money laundering and report his findings to Congress.

Section 6507. Treasury Study and Strategy on Money Laundering by the People’s Republic of China: Requires the Secretary to conduct a study on Chinese money laundering, develop a strategy to combat Chinese money-laundering activities, and report his findings to Congress.

Section 6508. Treasury and Justice Study on Efforts of Authoritarian Regimes to Exploit the Financial System of the United States: Requires the Secretary and Attorney General to conduct a study on how authoritarian regimes exploit the U.S. financial system to conduct political influence operations, sustain kleptocratic methods of maintaining power, export corruption, fund nongovernmental organizations; media organizations; or academic initiatives in the US to advance the interest of those regimes, and otherwise undermine democratic governance in the US and the partners and allies of the U.S. The Secretary is required to report the findings to Congress.

Section 6509. Authorization of Appropriations: This section authorizes to be appropriated to FinCEN, including to carry out this section, the following:

- \$136,000,000 for fiscal year 2020;
- \$60,000,000 for fiscal year 2021; and
- \$35,000,000 for each of fiscal years 2022 through 2025.

Regarding beneficial ownership, there are authorized to be appropriated to FinCEN for each of the 3 fiscal years beginning on the effective date of the regulations, such sums necessary to allocate to states to meet their costs of compliance.

Section 6510. Discretionary Surplus Funds: This section authorizes a direct spending offset, providing for the dollar amount specified under section 7(a)(3)(A) 9 of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) to be reduced by \$40,000,000.

Section 5511. Severability: This section requires that if any provision of this division, an amendment made by this division, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder shall not be affected.