

## MEMORANDUM

**To:** Members of the Committee on Financial Services

**From:** FSC Majority Staff

**Date:** November 21, 2017

**Subject:** November 29, 2017, Terrorism and Illicit Finance Subcommittee and Financial Institutions and Consumer Credit Subcommittee joint hearing entitled “Legislative Proposals to Counter Terrorism and Illicit Finance”

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The Terrorism and Illicit Finance Subcommittee and the Financial Institutions and Consumer Credit Subcommittee will hold a joint hearing entitled “Legislative Proposals to Counter Terrorism and Illicit Finance” at 2:00 p.m. on Wednesday, November 29, 2017, in Room 2128 of the Rayburn House Office Building. This will be a one-panel hearing with the following invited witnesses:

- Mr. Daniel H. Bley, Executive Vice President and Chief Risk Officer, Webster Bank, on behalf of the Mid-Size Bank Coalition of America
- Mr. John J. Byrne, President, Condor Consulting, LLC
- Mr. William J. Fox, Managing Director, Global Head of Financial Crimes Compliance, Bank of America, on behalf of The Clearing House
- Mr. Chip Poncy, President and Co-Founder, Financial Integrity Network

This hearing will examine the following legislative proposals.

***H.R. 2219, the “End Banking for Human Traffickers Act of 2017”***

Introduced by Representative Ed Royce, H.R. 2219 amends Section 105(b) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(b)) to add the Secretary of the Treasury to the President’s Interagency Task Force to Monitor and Combat Trafficking. The task force must submit to Congress recommendations for the revision of anti-money laundering programs to specifically target money laundering related to human trafficking.

H.R. 2219 also requires the Federal Financial Institutions Examination Council (FFIEC) to review and enhance, where necessary: (1) training and procedures to improve the ability of anti-money laundering programs to target human trafficking operations, and (2) procedures for referring potential human trafficking cases to the appropriate law enforcement agency.

H.R. 2219 also amends Section 110(b) Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7107(b)) to require the Department of State to report on: (1) efforts to eliminate money laundering related to human trafficking; and (2) the number of investigations, arrests, indictments, and convictions in money laundering cases related to human trafficking.

***H.R. \_\_\_\_\_, the “Counter Terrorism and Illicit Finance Act”***

To be introduced by Representative Pearce and Representative Luetkemeyer, this discussion draft of proposed legislation contains nine sections to:

1. Modernize the Currency Transaction Reports (CTRs) threshold to \$30,000, and update the Suspicious Activity Report (SAR) threshold \$10,000;
2. Require the Secretary of the Treasury to conduct a review of current Bank Secrecy Act (BSA) reporting requirements, and propose changes to ensure that information provided to law enforcement is of a “high degree of usefulness.” The review must consider the types of SARs that are of most value to law enforcement, whether the timeframe for filing a SAR should be increased, the feasibility of utilizing one form for both CTRs and SARs, whether the fields designated under a SAR as “critical” can be reduced, whether the increased use of exemption provisions to reduce CTRs has been successful for Financial Institutions, and whether CTR and SAR thresholds should be tied to inflation, among others;
3. Allow information sharing between financial institutions under an existing voluntary program to combat illicit finance, money laundering, and other Specified Unlawful Activities (as defined in 18 USC 1956), and provide safe harbor protections for the sharing of such information. This section also permits a domestic financial group to share SARs with its foreign branch or affiliate under certain circumstances;
4. Establish a No-Action Letter process at the Treasury’s Financial Crimes Enforcement Network (FinCEN), specific to BSA/AML laws and regulations. In forming this process, the Secretary of the Treasury shall consult with the federal banking agencies and other federal agencies as the Secretary determines appropriate. A fee system would cover the costs to carry out this

section. Such a system shall provide for a lower fee for small business concerns;

5. Require the Treasury Department to establish and make public its priorities to combat anti-money laundering and the financing of terrorism (AML/CFT);
6. Direct the Treasury Department to provide legal certainty to financial institutions that use technological innovation in AML programs;
7. Require law enforcement agencies, including the Department of Justice, to submit information related to their use of BSA data reported by financial institutions, to the Treasury Department in order to assess the usefulness of such data and enhance FinCEN's communication with reporting institutions;
8. Increase transparency in corporate formation as well as reduce the effect on consumers, small businesses, and financial institutions of the Department of Treasury's final rule entitled "Customer Due Diligence (CDD) Requirements for Financial Institutions" (May 11, 2016; 81 Fed. Reg. 29397), related to beneficial ownership. This bill requires FinCEN to collect beneficial ownership information at the formation of certain legal entities rather than require financial institutions to collect this information at the time a customer opens an account. Beneficial ownership information reported to FinCEN would be used only for law enforcement purposes, or for financial institutions' compliance with customer due diligence requirements. The CDD rule will have no force or effect until the Treasury Department revises it to conform with this legislation; and
9. Directs the Government Accountability Office (GAO) to issue a report to examine whether a lack of beneficial ownership information for partnerships and trusts has impeded investigations into money laundering, terrorist financing, and other illicit activity. Five years after enactment, the GAO must issue a report on the effectiveness of incorporation practices under this act. The GAO must also issue a report that examines the costs and benefits of the current AML/CFT framework, including its effectiveness to identify and prevent terrorist and illicit financing and the prosecution of related misconduct.