H. R. ______

To update dollar amount thresholds for certain currency transaction reports and suspicious activity reports, to improve the sharing of suspicious activity reports within a financial group, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. __________ introduced the following bill; which was referred to the Committee on __________________________

A BILL

To update dollar amount thresholds for certain currency transaction reports and suspicious activity reports, to improve the sharing of suspicious activity reports within a financial group, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Counter Terrorism and
6 Illicit Finance Act”.

(Original Signature of Member)
SEC. 2. UPDATING THRESHOLDS FOR CERTAIN CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITY REPORTS.

(a) Thresholds for Certain Currency Transaction Reports.—

(1) In general.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall revise regulations issued with respect to section 5313 of title 31, United States Code, to update each $10,000 threshold amount in such regulations to $30,000.

(2) Threshold for reports relating to coins and currency received in nonfinancial trade or business.—Section 5331 of title 31, United States Code, is amended by striking “$10,000” each place such term appears in heading or text and inserting “$30,000”.

(b) Thresholds for Suspicious Activity Reports.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, each Federal department or agency that issues regulations with respect to reports on suspicious transactions described under section 5318(g) of title 31, United States Code, shall update each $5,000 threshold amount in such regu-
tions to $10,000 and each $2,000 threshold amount in such regulation to $3,000.

(c) Updating the Money Services Business Definition Thresholds.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall revise section 1010.100(ff) of title 31, Code of Federal Regulations, to update each $1,000 threshold amount in such regulations to $3,000.

SEC. 3. STREAMLINING REQUIREMENTS FOR CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITY REPORTS.

(a) Review.—The Secretary of the Treasury (in consultation with Federal law enforcement agencies, the Director of National Intelligence, and the Federal functional regulators and in consultation with other relevant stakeholders) shall undertake a formal review of the current financial institution reporting requirements under the Bank Secrecy Act and its implementing regulations and propose changes to further reduce regulatory burdens, and ensure that the information provided is of a “high degree of usefulness” to law enforcement, as set forth under section 5311 of title 31, United States Code.

(b) Contents.—The review required under subsection (a) shall include a study of—
(1) whether the timeframe for filing a suspicious activity report should be increased from 30 days;

(2) whether or not currency transaction report and suspicious activity report thresholds should be tied to inflation or otherwise periodically be adjusted;

(3) whether the circumstances under which a financial institution determines whether to file a “continuing suspicious activity report”, or the processes followed by a financial institution in determining whether to file a “continuing suspicious activity report” (or both) can be narrowed;

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

(5) the categories, types, and characteristics of suspicious activity reports and currency transaction reports that are of the greatest value to, and that best support, investigative priorities of law enforcement and national security personnel;

(6) the increased use of exemption provisions to reduce currency transaction reports that are of little or no value to law enforcement efforts;
(7) the most appropriate ways to promote financial inclusion and address the adverse consequences of financial institutions de-risking entire categories of high-risk relationships, including charities, embassy accounts, money service businesses (as defined under section 1010.100(ff) of title 31, Code of Federal Regulations), and correspondent banks;

(8) the current financial institution reporting requirements under the Bank Secrecy Act and its implementing regulations and guidance; and

(9) such other items as the Secretary determines appropriate.

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

SEC. 4. SHARING OF SUSPICIOUS ACTIVITY REPORTS WITHIN A FINANCIAL GROUP.

(a) IN GENERAL.—

(1) SHARING WITH FOREIGN BRANCHES AND AFFILIATES.—Section 5318(g) of title 31, United
States Code, is amended by adding at the end the following:

“(5) Sharing with foreign branches, subsidiaries, and affiliates.—

“(A) In general.—Not later than 180 days after the date of the enactment of this paragraph, the Secretary of the Treasury shall issue rules permitting any financial institution with a reporting obligation under this subsection to share information on reports under this subsection with the institution’s foreign branches, subsidiaries, and affiliates for the purposes of combating illicit finance risks, notwithstanding any other provision of law except subparagraph (B).

“(B) Exception.—In issuing the regulations required under subparagraph (A), the Secretary may not permit a financial institution to share information on reports under this subsection with a foreign branch, subsidiary, or affiliate located in a jurisdiction that—

“(i) is subject to countermeasures imposed by the Federal Government; or
“(ii) the Secretary has determined cannot reasonably protect the privacy and confidentiality of such information.”.

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

(A) in clause (i), by inserting after “transaction has been reported” the following: “or otherwise reveal any information that would reveal that the transaction has been reported, including materials prepared or used by the financial institution for the purpose of identifying and detecting potentially suspicious activity”;

and

(B) in clause (ii), by inserting after “transaction has been reported,” the following: “or otherwise reveal any information that would reveal that the transaction has been reported, including materials prepared or used by the financial institution for the purpose of identifying and detecting potentially suspicious activity,”.

(b) RULEMAKING.—Not later than the end of the 180-day period beginning on the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out the amendments made by this section.
SEC. 5. FINCEN NO-ACTION LETTERS.

Section 310 of title 31, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (e) the following:

“(d) NO-ACTION LETTERS WITH RESPECT TO SPECIFIC CONDUCT.—

“(1) IN GENERAL.—The Director of FinCEN shall issue regulations to establish a process for the issuance of a no-action letter by FinCEN in response to an inquiry from a person or group of persons concerning the application of the Bank Secrecy Act, the USA PATRIOT Act, or any other anti-money laundering and counter terrorist financing law or regulation to specific conduct, which shall include a statement as to whether or not FinCEN has any intention of taking an enforcement or other regulatory action against the person or group with respect to such conduct.

“(2) CONSULTATION.—In issuing the regulations described under paragraph (1), the Secretary shall consult with the Federal functional regulators and such other Federal departments and agencies as the Secretary determines appropriate.
“(3) RELIANCE ON NO-ACTION LETTER.—

“(A) LIABILITY.—Notwithstanding any other provisions of law, except for paragraph (5)(B), a person described under subparagraph (B) who relies upon a no-action letter issued under this subsection in accordance with the provisions and findings of such letter shall not, as a result, be subject to any regulatory action or civil or criminal penalty under the Bank Secrecy Act, the USA PATRIOT Act, or any other anti-money laundering and counter terrorist financing law or regulation with respect to the activity covered in the no-action letter.

“(B) PERSONS COVERED.—A person described in this paragraph is—

“(i) any person involved in the specific conduct that is the subject of the no-action letter; and

“(ii) any person involved in conduct which is indistinguishable in all its material aspects from the specific conduct that is the subject of the no-action letter.

“(4) FEES.—

“(A) IN GENERAL.—The Director of FinCEN shall develop a system to charge a fee
for each request for a no-action letter made under this subsection in an amount sufficient, in the aggregate, to pay for the cost of carrying out this subsection. Such system shall provide for a lower fee for small business concerns and small financial institutions compared to other persons.

“(B) NOTICE AND COMMENT.—Not later than 45 days after the date of the enactment of this paragraph, the Director of FinCEN shall publish a description of the fee system described in subparagraph (A) in the Federal Register and shall solicit comments from the public for a period of 60 days after publication.

“(C) FINALIZATION.—The Director of FinCEN shall publish a final description of the fee system and implement such fee system not later than 30 days after the end of the public comment period described in subparagraph (B).

“(5) MODIFYING OR RESCINDING A NO-ACTION LETTER.—

“(A) IN GENERAL.—The Director of FinCEN may modify or rescind any no-action letter issued under this subsection if—
“(i) in light of changes in statute, regulations, or policy, the letter no longer sets forth the interpretation of FinCEN with respect to the content of the letter; or

“(ii) any fact or statement submitted in the original inquiry is found to be materially inaccurate or incomplete.

“(B) NO RELIANCE ON RESCINDED LETTER.—Paragraph (3) shall not apply to any actions taken after the date that a no-action letter is rescinded.

“(C) RETROACTIVE MODIFICATION OR RE-SCISSION.—A no-action letter may be modified or rescinded retroactively only with respect to one or more parties to the original inquiry and only if the Director of FinCEN determines that—

“(i) a fact or statement in the original inquiry was materially inaccurate or incomplete;

“(ii) the requestor failed to notify in writing FinCEN of a material change to any fact or statement in the original request; or
“(iii) a party to the original inquiry acted in bad faith when relying upon the no-action letter.

“(D) NOTICE OF MODIFICATION AND RE-SCISSON.—In the case that the Director of FinCEN modifies or rescinds a no-action letter under this subsection, the Director of FinCEN shall—

“(i) provide notice of such modification or rescission;

“(ii) establish a reasonable time period, of not less than 90 days, in which impacted persons may update their anti-money laundering programs or processes to achieve compliance with the Bank Secrecy Act, the USA PATRIOT Act, or any other anti-money laundering and counter terrorist financing law or regulation.

“(6) DEFINITIONS.—For purposes of this subsection:

“(A) BANK SECRECY ACT.—The term ‘Bank Secrecy Act’ means—

“(i) section 21 of the Federal Deposit Insurance Act;
“(ii) chapter 2 of title I of Public Law 91-508; and

“(iii) subchapter II of chapter 53 of this title.

“(B) Federal functional regulator.—The term ‘Federal functional regulator’ has the meaning given that term under section 5312 of title 31, United States Code.

“(C) Small business concern.—The term ‘small business concern’ has the meaning given under section 3 of the Small Business Act.”.

SEC. 6. REQUIRING TREASURY TO TAKE A MORE PROMINENT ROLE IN COORDINATING AML/CFT POLICY AND EXAMINATIONS ACROSS THE GOVERNMENT.

(a) Priorities.—Not later than nine months after the date of the enactment of this Act, and at least annually thereafter, the Secretary of the Treasury, acting through the Office of Terrorism and Financial Intelligence and the Financial Crimes Enforcement Network, in consultation with relevant Federal law enforcement, the Director of National Intelligence, and any other Federal departments and agencies that the Secretary of the Treasury determines appropriate, shall establish and make public
its priorities for U.S. anti-money laundering and counter
terrorist financing policy.

(b) SUPERVISION AND EXAMINATION.—The incorpo-
ration by financial institutions of the priorities established
pursuant to subsection (a) into the programs established
by those financial institutions to meet obligations under
the Bank Secrecy Act, the USA PATRIOT Act, and other
anti-money laundering and counter terrorist financing
laws and regulations shall form the basis on which the
financial institutions are supervised and examined for
compliance with those obligations.

(c) RULE OF CONSTRUCTION.—Nothing in sub-
section (a) may be construed as releasing financial institu-
tions from the requirement to comply with obligations
under the Bank Secrecy Act and other Federal laws and
regulations.

(d) REPORT.—Not later than nine months after the
date of enactment of this Act, the Secretary of the Treas-
ury (in consultation with Federal law enforcement agen-
cies, the Director of National Intelligence, and the Federal
functional regulators) shall submit to the Committee on
Financial Services of the House of Representatives and
the Committee on Banking, Housing, and Urban Affairs
of the Senate a report containing—
(1) an analysis of the Secretary of the Treasury’s delegation of examination authority under the Bank Secrecy Act, including the adequacy of the Department of the Treasury’s resources, capacity, expertise, and ability to effectively carry out the purposes of the Bank Secrecy Act;

(2) an examination of whether the Secretary should de-delegate that authority with regard to certain financial institutions; and

(3) legislative, administrative, and other recommendations to strengthen the Department of the Treasury’s authority to ensure an effective U.S. anti-money laundering and counter terrorist financing regime.

SEC. 7. ENCOURAGING THE USE OF TECHNOLOGICAL INNOVATIONS.

Section 5318(h) of title 31, United States Code, is amended by adding at the end the following:

“(4) ENCOURAGING THE USE OF TECHNOLOGICAL INNOVATIONS.—

“(A) IN GENERAL.—The Secretary of the Treasury shall, in carrying out this subsection, encourage but not require the use of technological innovations that improve anti-money
laundering programs described under paragraph (1).

“(B) SAFE HARBOR.—An anti-money laundering program that meets the minimum requirements described under paragraph (1) and any minimum standards issued pursuant to paragraph (2), shall not violate the requirements of this subsection by reason of any technological innovation used to carry out such program.

“(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed as releasing financial institutions from the requirement to comply with existing obligations under the Bank Secrecy Act and other Federal laws and regulations.”.

SEC. 8. ASSESSING THE USEFULNESS OF BANK SECRECY ACT REPORTING.

(a) ANNUAL REPORT.—Not later than one year after the date of enactment of this Act, and annually thereafter, the Attorney General, in consultation with Federal law enforcement agencies and the Director of National Intelligence, shall, to the extent practicable at the discretion of the Attorney General, provide the Secretary of the
Treasury with statistics, metrics, and other information on the use of such data, including—

(1) the extent to which such data is used for terrorism versus non-terrorism related investigations and, with respect to such non-terrorism related investigations, the most common types of laws to which such investigations relate;

(2) the frequency with which such data contains “actionable information” which leads to further law enforcement procedures, including the use of a subpoena, warrant, or other legal process; and

(3) information on the extent to which arrests, indictments, convictions, or plea bargains of actors result from the use of such data.

(b) USE OF REPORT INFORMATION.—The Secretary of the Treasury shall utilize the information reported under subsection (a)—

(1) to help assess the usefulness of Bank Secrecy Act reporting to law enforcement;

(2) to enhance feedback and communications with financial institutions and other entities subject to Bank Secrecy Act requirements; and

(3) for such other purposes as the Secretary determines appropriate.
SEC. 9. 18 MONTH ENFORCEMENT SAFE HARBOR OF CDD RULE.

No person shall be liable for any violation of the final rule of the Department of the Treasury titled “Customer Due Diligence Requirements for Financial Institutions” (“CDD rule”) published May 11, 2016 (81 Fed. Reg. 29397) during the 18-month period beginning on May 11, 2018, so long as such person has made a good faith effort to comply with such requirements.

SEC. 10. STUDIES AND REPORTS.

(a) BENEFICIAL OWNERSHIP.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Congress a report—

(1) evaluating the effectiveness of the collection of beneficial ownership information under the CDD rule (as defined under section 9), including—

(A) whether law enforcement agencies have had timely access to the information;

(B) the utility of such information in law enforcement investigations or prosecutions;

(C) an analysis of the reporting burden placed on financial institutions versus the utility of such information being made available to law enforcement; and
(D) whether further legislation is required
to reduce regulatory burdens or increase the
utility and timely access of such information to
law enforcement;

(2) assessing the effectiveness of incorporation
practices implemented under the CDD rule.

(b) COMPREHENSIVE COST-BENEFIT ANALYSIS.—
Not later than 2 years after the date of enactment of this
Act, the Comptroller General of the United States shall
conduct a study and submit to the Congress a report—

(1) providing a comprehensive quantitative and
qualitative estimate of the annualized costs to the
private sector to comply with the statutory and regu-
laratory requirements of the Bank Secrecy Act and re-
lated anti-money laundering laws and regulations;

(2) providing a comprehensive qualitative and
quantitative analysis of the effectiveness of the cur-
rent anti-money laundering and counter terrorist fi-
ancing framework in preventing, detecting, and
prosecuting terrorist and illicit financing;

(3) providing a comprehensive qualitative and
quantitative analysis of the benefits and costs to
both the private sector and the Government of the
private sector’s compliance with the statutory and
regulatory requirements of the Bank Secrecy Act
and related anti-money laundering laws and regulations; and

(4) examining the costs borne and effect on access to financial services for consumers and customers as a result of financial institutions compliance with the statutory and regulatory requirements of the Bank Secrecy Act and related anti-money laundering laws and regulations.

**SEC. 11. DEFINITIONS.**

For purposes of this Act:

(1) **BANK SECRECY ACT.**—The term “Bank Secrecy Act” means—

(A) section 21 of the Federal Deposit Insurance Act;

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

(C) subchapter II of chapter 53 of title 31, United States Code.

(2) **FEDERAL FUNCTIONAL REGULATOR.**—The term “Federal functional regulator” has the meaning given that term under section 5312 of title 31, United States Code.

(4) **FINANCIAL INSTITUTION.**—The term “financial institution” has the meaning given that term under section 5312 of title 31, United States Code.