

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2514  
OFFERED BY MR. CLEAVER OF MISSOURI**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Coordinating Oversight, Upgrading and Innovating  
4 Technology, and Examiner Reform Act of 2019” or the  
5 “COUNTER Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Bank Secrecy Act definition.

TITLE I—STRENGTHENING TREASURY

Sec. 101. Improving the definition and purpose of the Bank Secrecy Act.

Sec. 102. Special hiring authority.

Sec. 103. Civil Liberties and Privacy Officer.

Sec. 104. Civil Liberties and Privacy Council.

Sec. 105. International coordination.

Sec. 106. Treasury Attachés Program.

Sec. 107. Increasing technical assistance for international cooperation.

Sec. 108. FinCEN Domestic Liaisons.

Sec. 109. FinCEN Exchange.

Sec. 110. Study and strategy on trade-based money laundering.

Sec. 111. Study and strategy on de-risking.

Sec. 112. AML examination authority delegation study.

Sec. 113. Study and strategy on Chinese money laundering.

TITLE II—IMPROVING AML/CFT OVERSIGHT

Sec. 201. OECD pilot program on sharing of suspicious activity reports within a financial group.

Sec. 202. Training for examiners on AML/CFT.

- Sec. 203. Sharing of compliance resources.
- Sec. 204. GAO Study on feedback loops.
- Sec. 205. FinCEN study on BSA value.
- Sec. 206. Sharing of threat pattern and trend information.
- Sec. 207. Modernization and upgrading whistleblower protections.
- Sec. 208. Certain violators barred from serving on boards of United States financial institutions.
- Sec. 209. Additional damages for repeat Bank Secrecy Act violators.
- Sec. 210. Justice annual report on deferred and non-prosecution agreements.
- Sec. 211. Return of profits and bonuses.
- Sec. 212. Prohibition on tax deductions for attorney's fees related to Bank Secrecy Act settlements and court costs.
- Sec. 213. Application of Bank Secrecy Act to dealers in antiquities.
- Sec. 214. Geographic targeting order.

TITLE III—MODERNIZING THE AML SYSTEM

- Sec. 301. Encouraging innovation in BSA compliance.
- Sec. 302. Innovation Labs.
- Sec. 303. Innovation Council.
- Sec. 304. Parallel runs rulemaking.

1 **SEC. 2. BANK SECRECY ACT DEFINITION.**

2 Section 5312(a) of title 31, United States Code, is  
3 amended by adding at the end the following:

4 “(6) BANK SECRECY ACT.—The term ‘Bank Se-  
5 crecy act’ means—

6 “(A) section 21 of the Federal Deposit In-  
7 surance Act;

8 “(B) chapter 2 of title I of Public Law 91-  
9 508; and

10 “(C) this subchapter.”.

11 **TITLE I—STRENGTHENING**  
12 **TREASURY**

13 **SEC. 101. IMPROVING THE DEFINITION AND PURPOSE OF**  
14 **THE BANK SECRECY ACT.**

15 Section 5311 of title 31, United States Code, is  
16 amended—

1           (1) by inserting “to protect our national secu-  
2           rity, to safeguard the integrity of the international  
3           financial system, and” before “to require”; and

4           (2) by inserting “to law enforcement” before  
5           “in criminal”.

6 **SEC. 102. SPECIAL HIRING AUTHORITY.**

7           (a) IN GENERAL.—Section 310 of title 31, United  
8 States Code, is amended—

9           (1) by redesignating subsection (d) as sub-  
10          subsection (g); and

11          (2) by inserting after subsection (c) the fol-  
12          lowing:

13          “(d) SPECIAL HIRING AUTHORITY.—

14                 “(1) IN GENERAL.—The Secretary of the  
15                 Treasury may appoint, without regard to the provi-  
16                 sions of sections 3309 through 3318 of title 5, can-  
17                 didates directly to positions in the competitive serv-  
18                 ice (as defined in section 2102 of that title) in  
19                 FinCEN.

20                 “(2) PRIMARY RESPONSIBILITIES.—The pri-  
21                 mary responsibility of candidates appointed pursuant  
22                 to paragraph (1) shall be to provide substantive sup-  
23                 port in support of the duties described in subpara-  
24                 graph (A), (B), (E), and (F) of subsection (b)(2).”.

1 (b) REPORT.—Not later than 360 days after the date  
2 of enactment of this Act, and every year thereafter for  
3 7 years, the Director of the Financial Crimes Enforcement  
4 Network shall submit a report to the Committee on Finan-  
5 cial Services of the House of Representatives and the  
6 Committee on Banking, Housing, and Urban Affairs of  
7 the Senate that includes—

8 (1) the number of new employees hired since  
9 the preceding report through the authorities de-  
10 scribed under section 310(e) of title 31, United  
11 States Code, along with position titles and associ-  
12 ated pay grades for such hires; and

13 (2) a copy of any Federal Government survey of  
14 staff perspectives at the Office of Terrorism and Fi-  
15 nancial Intelligence, including findings regarding the  
16 Office and the Financial Crimes Enforcement Net-  
17 work from the most recently administered Federal  
18 Employee Viewpoint Survey.

19 **SEC. 103. CIVIL LIBERTIES AND PRIVACY OFFICER.**

20 (a) APPOINTMENT OF OFFICERS.—Not later than the  
21 end of the 3-month period beginning on the date of enact-  
22 ment of this Act, a Civil Liberties and Privacy Officer  
23 shall be appointed, from among individuals who are attor-  
24 neys with expertise in data privacy laws—

1 (1) within each Federal functional regulator, by  
2 the head of the Federal functional regulator;

3 (2) within the Financial Crimes Enforcement  
4 Network, by the Secretary of the Treasury; and

5 (3) within the Internal Revenue Service Small  
6 Business and Self-Employed Tax Center, by the Sec-  
7 retary of the Treasury.

8 (b) DUTIES.—Each Civil Liberties and Privacy Offi-  
9 cer shall, with respect to the applicable regulator, Net-  
10 work, or Center within which the Officer is located—

11 (1) be consulted each time Bank Secrecy Act or  
12 anti-money laundering regulations affecting civil lib-  
13 erties or privacy are developed or reviewed;

14 (2) be consulted on information-sharing pro-  
15 grams, including those that provide access to person-  
16 ally identifiable information;

17 (3) ensure coordination and clarity between  
18 anti-money laundering, civil liberties, and privacy  
19 regulations;

20 (4) contribute to the evaluation and regulation  
21 of new technologies that may strengthen data pri-  
22 vacy and the protection of personally identifiable in-  
23 formation collected by each Federal functional regu-  
24 lator; and

25 (5) develop metrics of program success.

1 (c) DEFINITIONS.—For purposes of this section:

2 (1) BANK SECRECY ACT.—The term “Bank Se-  
3 crecy Act” has the meaning given that term under  
4 section 5312 of title 31, United States Code.

5 (2) FEDERAL FUNCTIONAL REGULATOR.—The  
6 term “Federal functional regulator” means the  
7 Board of Governors of the Federal Reserve System,  
8 the Comptroller of the Currency, the Federal De-  
9 posit Insurance Corporation, the National Credit  
10 Union Administration, the Securities and Exchange  
11 Commission, and the Commodity Futures Trading  
12 Commission.

13 **SEC. 104. CIVIL LIBERTIES AND PRIVACY COUNCIL.**

14 (a) ESTABLISHMENT.—There is established the Civil  
15 Liberties and Privacy Council (hereinafter in this section  
16 referred to as the “Council”), which shall consist of the  
17 Civil Liberties and Privacy Officers appointed pursuant to  
18 section 103.

19 (b) CHAIR.—The Director of the Financial Crimes  
20 Enforcement Network shall serve as the Chair of the  
21 Council.

22 (c) DUTY.—The members of the Council shall coordi-  
23 nate on activities related to their duties as Civil Liberties  
24 Privacy Officers, but may not supplant the individual  
25 agency determinations on civil liberties and privacy.

1 (d) MEETINGS.—The meetings of the Council—

2 (1) shall be at the call of the Chair, but in no  
3 case may the Council meet less than quarterly;

4 (2) may include open and partially closed ses-  
5 sions, as determined necessary by the Council; and

6 (3) shall include participation by public and pri-  
7 vate entities and law enforcement agencies.

8 (e) REPORT.—The Chair of the Council shall issue  
9 an annual report to the Congress on the program and pol-  
10 icy activities, including the success of programs as meas-  
11 ured by metrics of program success developed pursuant  
12 to section 103(b)(5), of the Council during the previous  
13 year and any legislative recommendations that the Council  
14 may have.

15 (f) NONAPPLICABILITY OF FACA.—The Federal Ad-  
16 visory Committee Act (5 U.S.C. App.) shall not apply to  
17 the Council.

18 **SEC. 105. INTERNATIONAL COORDINATION.**

19 (a) IN GENERAL.—The Secretary of the Treasury  
20 shall work with the Secretary's foreign counterparts, in-  
21 cluding through the Financial Action Task Force, the  
22 International Monetary Fund, the World Bank, the  
23 Egmont Group of Financial Intelligence Units, the  
24 Organisation for Economic Co-operation and Develop-  
25 ment, and the United Nations, to promote stronger anti-

1 money laundering frameworks and enforcement of anti-  
2 money laundering laws.

3 (b) COOPERATION GOAL.—In carrying out subsection  
4 (a), the Secretary of the Treasury may work directly with  
5 foreign counterparts and other organizations where the  
6 goal of cooperation can best be met.

7 (c) INTERNATIONAL MONETARY FUND.—

8 (1) SUPPORT FOR CAPACITY OF THE INTER-  
9 NATIONAL MONETARY FUND TO PREVENT MONEY  
10 LAUNDERING AND FINANCING OF TERRORISM.—  
11 Title XVI of the International Financial Institutions  
12 Act (22 U.S.C. 262p et seq.) is amended by adding  
13 at the end the following:

14 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**  
15 **NATIONAL MONETARY FUND TO PREVENT**  
16 **MONEY LAUNDERING AND FINANCING OF**  
17 **TERRORISM.**

18 “The Secretary of the Treasury shall instruct the  
19 United States Executive Director at the International  
20 Monetary Fund to support the increased use of the admin-  
21 istrative budget of the Fund for technical assistance that  
22 strengthens the capacity of Fund members to prevent  
23 money laundering and the financing of terrorism.”.

24 (2) NATIONAL ADVISORY COUNCIL REPORT TO  
25 CONGRESS.—The Chairman of the National Advisory



1 Council on International Monetary and Financial  
2 Policies shall include in the report required by sec-  
3 tion 1701 of the International Financial Institutions  
4 Act (22 U.S.C. 262r) for the fiscal year following  
5 the date of the enactment of this Act a description  
6 of—

7 (A) the activities of the International Mon-  
8 etary Fund in the most recently completed fis-  
9 cal year to provide technical assistance that  
10 strengthens the capacity of Fund members to  
11 prevent money laundering and the financing of  
12 terrorism, and the effectiveness of the assist-  
13 ance; and

14 (B) the efficacy of efforts by the United  
15 States to support such technical assistance  
16 through the use of the Fund's administrative  
17 budget.

18 (3) SUNSET.—Effective on the date that is the  
19 end of the 4-year period beginning on the date of en-  
20 actment of this Act, section 1629 of the Inter-  
21 national Financial Institutions Act, as added by  
22 paragraph (1), is repealed.

23 **SEC. 106. TREASURY ATTACHÉS PROGRAM.**

24 (a) IN GENERAL.—Title 31, United States Code, is  
25 amended by inserting after section 315 the following:

1 **“§ 316. Treasury Attachés Program**

2 “(a) IN GENERAL.—There is established the Treas-  
3 ury Attachés Program, under which the Secretary of the  
4 Treasury shall appoint employees of the Department of  
5 the Treasury, after nomination by the Director of the Fi-  
6 nancial Crimes Enforcement Network (‘FinCEN’), as a  
7 Treasury attaché, who shall—

8 “(1) be knowledgeable about the Bank Secrecy  
9 Act and anti-money laundering issues;

10 “(2) be co-located in a United States embassy;

11 “(3) perform outreach with respect to Bank Se-  
12 crecy Act and anti-money laundering issues;

13 “(4) establish and maintain relationships with  
14 foreign counterparts, including employees of min-  
15 istries of finance, central banks, and other relevant  
16 official entities;

17 “(5) conduct outreach to local and foreign fi-  
18 nancial institutions and other commercial actors, in-  
19 cluding—

20 “(A) information exchanges through  
21 FinCEN and FinCEN programs; and

22 “(B) soliciting buy-in and cooperation for  
23 the implementation of—

24 “(i) United States and multilateral  
25 sanctions; and

1                   “(ii) international standards on anti-  
2                   money laundering and the countering of  
3                   the financing of terrorism; and

4                   “(6) perform such other actions as the Sec-  
5                   retary determines appropriate.

6                   “(b) NUMBER OF ATTACHÉS.—The number of Treas-  
7                   ury attachés appointed under this section at any one time  
8                   shall be not fewer than 6 more employees than the number  
9                   of employees of the Department of the Treasury serving  
10                  as Treasury attachés on March 1, 2019.

11                  “(c) COMPENSATION.—Each Treasury attaché ap-  
12                  pointed under this section and located at a United States  
13                  embassy shall receive compensation at the higher of—

14                   “(1) the rate of compensation provided to a  
15                  Foreign Service officer at a comparable career level  
16                  serving at the same embassy; or

17                   “(2) the rate of compensation the Treasury  
18                  attaché would otherwise have received, absent the  
19                  application of this subsection.

20                  “(d) BANK SECRECY ACT DEFINED.—In this section,  
21                  the term ‘Bank Secrecy Act’ has the meaning given that  
22                  term under section 5312.”.

23                  (b) CLERICAL AMENDMENT.—The table of contents  
24                  for chapter 3 of title 31, United States Code, is amended

1 by inserting after the item relating to section 315 the fol-  
2 lowing:

“316. Treasury Attachés Program.”.

3 **SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR**  
4 **INTERNATIONAL COOPERATION.**

5 (a) IN GENERAL.—There is authorized to be appro-  
6 priated for each of fiscal years 2020 through 2024 to the  
7 Secretary of the Treasury for purposes of providing tech-  
8 nical assistance that promotes compliance with inter-  
9 national standards and best practices, including in par-  
10 ticular those aimed at the establishment of effective anti-  
11 money laundering and countering the financing of ter-  
12 rorism regimes, in an amount equal to twice the amount  
13 authorized for such purpose for fiscal year 2019.

14 (b) ACTIVITY AND EVALUATION REPORT.—Not later  
15 than 360 days after enactment of this Act, and every year  
16 thereafter for five years, the Secretary of the Treasury  
17 shall issue a report to the Congress on the activities of  
18 the Office of Technical Assistance of the Department of  
19 the Treasury containing the following:

20 (1) a narrative detailing the strategic goals of  
21 the Office in the previous year, with an explanation  
22 of how technical assistance provided in the previous  
23 year advances the goals;

24 (2) a description of technical assistance pro-  
25 vided by the Office in the previous year, including

1 the objectives and delivery methods of the assist-  
2 ance;

3 (3) a list of beneficiaries and providers (other  
4 than Office staff) of the technical assistance;

5 (4) a description of how technical assistance  
6 provided by the Office complements, duplicates, or  
7 otherwise affects or is affected by technical assist-  
8 ance provided by the international financial institu-  
9 tions (as defined under section 1701(c) of the Inter-  
10 national Financial Institutions Act); and

11 (5) a copy of any Federal Government survey of  
12 staff perspectives at the Office of Technical Assist-  
13 ance, including any findings regarding the Office  
14 from the most recently administered Federal Em-  
15 ployee Viewpoint Survey.

16 **SEC. 108. FINCEN DOMESTIC LIAISONS.**

17 Section 310 of title 31, United States Code, as  
18 amended by section 102, is further amended by inserting  
19 after subsection (d) the following:

20 “(e) FINCEN DOMESTIC LIAISONS.—

21 “(1) IN GENERAL.—The Director of FinCEN  
22 shall appoint at least 6 senior FinCEN employees as  
23 FinCEN Domestic Liaisons, who shall—

24 “(A) each be assigned to focus on a spe-  
25 cific region of the United States;

1           “(B) be located at an office in such region  
2           (or co-located at an office of the Board of Gov-  
3           ernors of the Federal Reserve System in such  
4           region);

5           “(C) perform outreach to BSA officers at  
6           financial institutions (including non-bank finan-  
7           cial institutions) and persons who are not finan-  
8           cial institutions, especially with respect to ac-  
9           tions taken by FinCEN that require specific ac-  
10          tions by, or have specific effects on, such insti-  
11          tutions or persons, as determined by the Direc-  
12          tor.

13          “(2) DEFINITIONS.—In this subsection:

14           “(A) BSA OFFICER.—The term ‘BSA offi-  
15           cer’ means an employee of a financial institu-  
16           tion whose primary job responsibility involves  
17           compliance with the Bank Secrecy Act, as such  
18           term is defined under section 5312.

19           “(B) FINANCIAL INSTITUTION.—The term  
20           ‘financial institution’ has the meaning given  
21           that term under section 5312.”.

22          **SEC. 109. FINCEN EXCHANGE.**

23          Section 310 of title 31, United States Code, as  
24          amended by section 108, is further amended by inserting  
25          after subsection (e) the following

1 “(f) FINCEN EXCHANGE.—

2 “(1) ESTABLISHMENT.—The FinCEN Ex-  
3 change is hereby established within FinCEN, which  
4 shall consist of the FinCEN Exchange program of  
5 FinCEN in existence on the day before the date of  
6 enactment of this paragraph.

7 “(2) PURPOSE.—The FinCEN Exchange shall  
8 facilitate a voluntary public-private information  
9 sharing partnership among law enforcement, finan-  
10 cial institutions, and FinCEN to—

11 “(A) effectively and efficiently combat  
12 money laundering, terrorism financing, orga-  
13 nized crime, and other financial crimes;

14 “(B) protect the financial system from il-  
15 licit use; and

16 “(C) promote national security.

17 “(3) REPORT.—

18 “(A) IN GENERAL.—Not later than one  
19 year after the date of enactment of this sub-  
20 section, and annually thereafter for the next  
21 five years, the Secretary of the Treasury shall  
22 submit to the Committee on Financial Services  
23 of the House of Representatives and the Com-  
24 mittee on Banking, Housing, and Urban Affairs  
25 of the Senate a report containing—

1           “(i) an analysis of the efforts under-  
2           taken by the FinCEN Exchange and the  
3           results of such efforts;

4           “(ii) an analysis of the extent and ef-  
5           fectiveness of the FinCEN Exchange, in-  
6           cluding any benefits realized by law en-  
7           forcement from partnership with financial  
8           institutions; and

9           “(iii) any legislative, administrative,  
10          or other recommendations the Secretary  
11          may have to strengthen FinCEN Exchange  
12          efforts.

13          “(B) CLASSIFIED ANNEX.—Each report  
14          under subparagraph (A) may include a classi-  
15          fied annex.

16          “(4) INFORMATION SHARING REQUIREMENT.—  
17          Information shared pursuant to this subsection shall  
18          be shared in compliance with all other applicable  
19          Federal laws and regulations.

20          “(5) RULE OF CONSTRUCTION.—Nothing under  
21          this subsection may be construed to create new in-  
22          formation sharing authorities related to the Bank  
23          Secrecy Act (as such term is defined under section  
24          5312 of title 31, United States Code).



1           “(6) FINANCIAL INSTITUTION DEFINED.—In  
2           this subsection, the term ‘financial institution’ has  
3           the meaning given that term under section 5312 of  
4           title 31, United States Code.”.

5   **SEC. 110. STUDY AND STRATEGY ON TRADE-BASED MONEY**  
6                           **LAUNDERING.**

7           (a) STUDY.—The Secretary of the Treasury shall  
8           carry out a study, in consultation with appropriate private  
9           sector stakeholders and Federal departments and agen-  
10          cies, on trade-based money laundering.

11          (b) REPORT.—Not later than the end of the 1-year  
12          period beginning on the date of the enactment of this Act,  
13          the Secretary shall issue a report to the Congress con-  
14          taining—

15                  (1) all findings and determinations made in car-  
16                  rying out the study required under subsection (a);  
17                  and

18                  (2) proposed strategies to combat trade-based  
19                  money laundering.

20          (c) CLASSIFIED ANNEX.—The report required under  
21          this section may include a classified annex.

22          (d) CONTRACTING AUTHORITY.—The Secretary may  
23          contract with a private third-party to carry out the study  
24          required under this section.

1 **SEC. 111. STUDY AND STRATEGY ON DE-RISKING.**

2 (a) REVIEW.—The Secretary of the Treasury, in con-  
3 sultation with appropriate private sector stakeholders, ex-  
4 aminers, and the Federal functional regulators (as defined  
5 under section 104) and other relevant stakeholders, shall  
6 undertake a formal review of—

7 (1) any adverse consequences of financial insti-  
8 tutions de-risking entire categories of relationships,  
9 including charities, embassy accounts, money serv-  
10 ices businesses (as defined under section  
11 1010.100(ff) of title 31, Code of Federal Regula-  
12 tions) and their agents, countries, international and  
13 domestic regions, and respondent banks;

14 (2) the reasons why financial institutions are  
15 engaging in de-risking;

16 (3) the association with and effects of de-risk-  
17 ing on money laundering and financial crime actors  
18 and activities;

19 (4) the most appropriate ways to promote fi-  
20 nancial inclusion, particularly with respect to devel-  
21 oping countries, while maintaining compliance with  
22 the Bank Secrecy Act, including an assessment of  
23 policy options to—

24 (A) more effectively tailor Federal actions  
25 and penalties to the size of foreign financial in-

1           stitutions and any capacity limitations of for-  
2           eign governments; and

3                   (B) reduce compliance costs that may lead  
4           to the adverse consequences described in para-  
5           graph (1);

6           (5) formal and informal feedback provided by  
7           examiners that may have led to de-risking; and

8           (6) the relationship between resources dedicated  
9           to compliance and overall sophistication of compli-  
10          ance efforts at entities that may be experiencing de-  
11          risking versus those that have not experienced de-  
12          risking.

13          (b) DE-RISKING STRATEGY.—The Secretary shall de-  
14          velop a strategy to reduce de-risking and adverse con-  
15          sequences related to de-risking.

16          (c) REPORT.—Not later than the end of the 1-year  
17          period beginning on the date of the enactment of this Act,  
18          the Secretary, in consultation with the Federal functional  
19          regulators and other relevant stakeholders, shall issue a  
20          report to the Congress containing—

21                   (1) all findings and determinations made in car-  
22                   rying out the study required under subsection (a);  
23                   and

24                   (2) the strategy developed pursuant to sub-  
25                   section (b).

1 (d) DEFINITIONS.—In this section:

2 (1) DE-RISKING.—The term “de-risking”  
3 means the wholesale closing of accounts or limiting  
4 of financial services for a category of customer due  
5 to unsubstantiated risk as it relates to compliance  
6 with the Bank Secrecy Act.

7 (2) BSA TERMS.—The terms “Bank Secrecy  
8 Act” and “financial institution” have the meaning  
9 given those terms, respectively, under section 5312  
10 off title 31, United States Code.

11 **SEC. 112. AML EXAMINATION AUTHORITY DELEGATION**  
12 **STUDY.**

13 (a) STUDY.—The Secretary of the Treasury shall  
14 carry out a study on the Secretary’s delegation of exam-  
15 ination authority under the Bank Secrecy Act, including—

16 (1) an evaluation of the efficacy of the delega-  
17 tion, especially with respect to mission of the Bank  
18 Secrecy Act;

19 (2) whether the delegated agencies have appro-  
20 priate resources to perform their delegated respon-  
21 sibilities; and

22 (3) whether the examiners in delegated agencies  
23 have sufficient training and support to perform their  
24 responsibilities.

1 (b) REPORT.—Not later than one year after the date  
2 of enactment of this Act, the Secretary of the Treasury  
3 shall submit to the Committee on Financial Services of  
4 the House of Representatives and the Committee on  
5 Banking, Housing, and Urban Affairs of the Senate a re-  
6 port containing—

7 (1) all findings and determinations made in car-  
8 rying out the study required under subsection (a);  
9 and

10 (2) recommendations to improve the efficacy of  
11 delegation authority, including the potential for de-  
12 legation of any or all such authority where it may  
13 be appropriate.

14 (c) BANK SECRECY ACT DEFINED.—The term  
15 “Bank Secrecy Act” has the meaning given that term  
16 under section 5312 off title 31, United States Code.

17 **SEC. 113. STUDY AND STRATEGY ON CHINESE MONEY**  
18 **LAUNDERING.**

19 (a) STUDY.—The Secretary of the Treasury shall  
20 carry out a study on the extent and effect of Chinese  
21 money laundering activities in the United States and  
22 worldwide.

23 (b) STRATEGY TO COMBAT CHINESE MONEY LAUN-  
24 DERING.—Upon the completion of the study required  
25 under subsection (a), the Secretary shall, in consultation

1 with such other Federal departments and agencies as the  
2 Secretary determines appropriate, develop a strategy to  
3 combat Chinese money laundering activities.

4 (c) REPORT.—Not later than the end of the 1-year  
5 period beginning on the date of enactment of this Act, the  
6 Secretary of the Treasury shall issue a report to Congress  
7 containing—

8 (1) all findings and determinations made in car-  
9 rying out the study required under subsection (a);  
10 and

11 (2) the strategy developed under subsection (b).

## 12 **TITLE II—IMPROVING AML/CFT** 13 **OVERSIGHT**

### 14 **SEC. 201. OECD PILOT PROGRAM ON SHARING OF SUS-** 15 **PICIOUS ACTIVITY REPORTS WITHIN A FI-** 16 **NANCIAL GROUP.**

17 (a) IN GENERAL.—

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

22 “(5) OECD PILOT PROGRAM ON SHARING WITH  
23 FOREIGN BRANCHES, SUBSIDIARIES, AND AFFILI-  
24 ATES.—

1           “(A) IN GENERAL.—Not later than 180  
2           days after the date of the enactment of this  
3           paragraph, the Secretary of the Treasury shall  
4           issue rules, subject to such controls and restric-  
5           tions as the Director of the Financial Crimes  
6           Enforcement Network determines appropriate,  
7           establishing the pilot program described under  
8           subparagraph (B). In prescribing such rules,  
9           the Secretary shall ensure that the sharing of  
10          information described under such subparagraph  
11          (B) is subject to appropriate standards and re-  
12          quirements regarding data security and the con-  
13          fidentiality of personally identifiable informa-  
14          tion.

15          “(B) PILOT PROGRAM DESCRIBED.—The  
16          pilot program required under this paragraph  
17          shall—

18                 “(i) permit any financial institution  
19                 with a reporting obligation under this sub-  
20                 section to share reports (and information  
21                 on such reports) under this subsection with  
22                 the institution’s foreign branches, subsidi-  
23                 aries, and affiliates for the purpose of com-  
24                 bating illicit finance risks, notwithstanding  
25                 any other provision of law except subpara-

1 graph (B), but only if such foreign branch,  
2 subsidiary, or affiliate is located in a juris-  
3 diction that is a member of the  
4 Organisation for Economic Co-operation  
5 and Development;

6 “(ii) terminate on the date that is five  
7 years after the date of enactment of this  
8 paragraph, except that the Secretary may  
9 extend the pilot program for up to two  
10 years upon submitting a report to the  
11 Committee on Financial Services of the  
12 House of Representatives and the Com-  
13 mittee on Banking, Housing, and Urban  
14 Affairs of the Senate that includes—

15 “(I) a certification that the ex-  
16 tension is in the national interest of  
17 the United States, with a detailed ex-  
18 planation of the reasons therefor;

19 “(II) an evaluation of the useful-  
20 ness of the pilot program, including a  
21 detailed analysis of any illicit activity  
22 identified or prevented as a result of  
23 the program; and

24 “(III) a detailed legislative pro-  
25 posal providing for a long-term exten-



1                   sion of the pilot program activities, in-  
2                   cluding expected budgetary resources  
3                   for the activities, if the Secretary de-  
4                   termines that a long-term extension is  
5                   appropriate.

6                   “(C) PROHIBITION INVOLVING CERTAIN  
7                   JURISDICTIONS.—In issuing the regulations re-  
8                   quired under subparagraph (A), the Secretary  
9                   may not permit a financial institution to share  
10                  information on reports under this subsection  
11                  with a foreign branch, subsidiary, or affiliate lo-  
12                  cated in a jurisdiction that—

13                   “(i) is subject to countermeasures im-  
14                   posed by the Federal Government; or

15                   “(ii) the Secretary has determined  
16                   cannot reasonably protect the privacy and  
17                   confidentiality of such information.

18                  “(D) IMPLEMENTATION UPDATES.—Not  
19                  later than 360 days after the date rules are  
20                  issued under subparagraph (A), and annually  
21                  thereafter for three years, the Secretary, or the  
22                  Secretary’s designee, shall brief the Committee  
23                  on Financial Services of the House of Rep-  
24                  resentatives and the Committee on Banking,  
25                  Housing, and Urban Affairs of the Senate on—

1 “(i) the degree of any information  
2 sharing permitted under the pilot program,  
3 and a description of criteria used by the  
4 Secretary to evaluate the appropriateness  
5 of the information sharing;

6 “(ii) the effectiveness of the pilot pro-  
7 gram in identifying or preventing the viola-  
8 tion of a United States law or regulation,  
9 and mechanisms that may improve such ef-  
10 fectiveness; and

11 “(iii) any recommendations to amend  
12 the design of the pilot program, or to in-  
13 clude specific non-OECD jurisdictions in  
14 the program.

15 “(6) TREATMENT OF FOREIGN JURISDICTION-  
16 ORIGINATED REPORTS.—A report received by a fi-  
17 nancial institution from a foreign affiliate with re-  
18 spect to a suspicious transaction relevant to a pos-  
19 sible violation of law or regulation shall be subject  
20 to the same confidentiality requirements provided  
21 under this subsection for a report of a suspicious  
22 transaction described under paragraph (1).”.

23 (2) NOTIFICATION PROHIBITIONS.—Section  
24 5318(g)(2)(A) of title 31, United States Code, is  
25 amended—

1 (A) in clause (i), by inserting after “trans-  
2 action has been reported” the following: “or  
3 otherwise reveal any information that would re-  
4 veal that the transaction has been reported, in-  
5 cluding materials prepared or used by the fi-  
6 nancial institution for the purpose of identifying  
7 and detecting potentially suspicious activity”;  
8 and

9 (B) in clause (ii), by inserting after “trans-  
10 action has been reported,” the following: “or  
11 otherwise reveal any information that would re-  
12 veal that the transaction has been reported, in-  
13 cluding materials prepared or used by the fi-  
14 nancial institution for the purpose of identifying  
15 and detecting potentially suspicious activity,”.

16 (b) RULEMAKING.—Not later than the end of the 1-  
17 year period beginning on the date of enactment of this  
18 Act, the Secretary of the Treasury shall issue regulations  
19 to carry out the amendments made by this section.

20 **SEC. 202. TRAINING FOR EXAMINERS ON AML/CFT.**

21 (a) IN GENERAL.—Subchapter II of chapter 53 of  
22 title 31, United States Code, is amended by adding at the  
23 end the following:

1 **“§ 5333. AML/CFT Training**

2 “(a) TRAINING REQUIREMENT.—Each Federal ex-  
3 aminer reviewing compliance with the Bank Secrecy Act  
4 shall attend at least 10 hours of annual training on anti-  
5 money laundering (AML) and the countering of the fi-  
6 nancing of terrorism (CFT), including—

7 “(1) potential risk profiles and red flags that  
8 may be encountered during examinations;

9 “(2) financial crime patterns and trends;

10 “(3) the high-level context for why AML and  
11 CFT programs are necessary for law enforcement  
12 agencies and other national security agencies, and  
13 what risks the programs seek to mitigate; and

14 “(4) de-risking and its effect on the provision of  
15 financial services.

16 “(b) TRAINING MATERIALS AND STANDARDS.—The  
17 Secretary of the Treasury shall, in consultation with the  
18 Financial Institutions Examination Council, the Financial  
19 Crimes Enforcement Network, and State, Federal, and  
20 Tribal law enforcement agencies, establish appropriate  
21 training materials and standards for use in the training  
22 required under subsection (a).”.

23 (b) CLERICAL AMENDMENT.—The table of contents  
24 for chapter 53 of title 31, United States Code, is amended

1 by inserting after the item relating to section 5332 the  
2 following:

“5333. AML/CFT Training.”.

3 **SEC. 203. SHARING OF COMPLIANCE RESOURCES.**

4 (a) IN GENERAL.—Section 5318 of title 31, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 “(o) SHARING OF COMPLIANCE RESOURCES.—

8 “(1) SHARING PERMITTED.—Two or more fi-  
9 nancial institutions may enter into collaborative ar-  
10 rangements in order to more efficiently comply with  
11 the requirements of this subchapter.

12 “(2) OUTREACH.—The Secretary of the Treas-  
13 ury and the appropriate supervising agencies shall  
14 carry out an outreach program to provide financial  
15 institutions with information, including best prac-  
16 tices, with respect to the sharing of resources de-  
17 scribed under paragraph (1).”.

18 (b) RULE OF CONSTRUCTION.—The amendment  
19 made by subsection (a) may not be construed to require  
20 financial institutions to share resources.

21 **SEC. 204. GAO STUDY ON FEEDBACK LOOPS.**

22 (a) STUDY.—The Comptroller General of the United  
23 States shall carry out a study on—

24 (1) best practices within the United States Gov-  
25 ernment for providing feedback (“feedback loop”) to

1 relevant parties (including regulated private entities)  
2 on the usage and usefulness of personally identifi-  
3 able information (“PII”), sensitive-but-unclassified  
4 (“SBU”) data, or similar information provided by  
5 such parties to Government users of such informa-  
6 tion and data (including law enforcement or regu-  
7 lators); and

8 (2) any practices or standards insider or out-  
9 side the United States for providing feedback  
10 through sensitive information and public-private  
11 partnership information sharing efforts, specifically  
12 related to efforts to combat money laundering and  
13 other forms of illicit finance.

14 (b) REPORT.—Not later than the end of the 18-  
15 month period beginning on the date of the enactment of  
16 this Act, the Comptroller General shall issue a report to  
17 the Committee on Banking, Housing, and Urban Affairs  
18 of the Senate and the Committee on Financial Services  
19 of the House of Representatives containing—

20 (1) all findings and determinations made in car-  
21 rying out the study required under subsection (a);

22 (2) with respect to each of paragraphs (1) and  
23 (2) of subsection (a), any best practices or signifi-  
24 cant concerns identified by the Comptroller General,  
25 and their applicability to public-private partnerships

1 and feedback loops with respect to U.S. efforts to  
2 combat money laundering and other forms of illicit  
3 finance; and

4 (3) recommendations to reduce or eliminate any  
5 unnecessary Government collection of the informa-  
6 tion described under subsection (a)(1).

7 **SEC. 205. FINCEN STUDY ON BSA VALUE.**

8 (a) STUDY.—The Director of the Financial Crimes  
9 Enforcement Network shall carry out a study on Bank Se-  
10 crecy Act value.

11 (b) REPORT.—Not later than the end of the 30-day  
12 period beginning on the date the study under subsection  
13 (a) is completed, the Director shall issue a report to the  
14 Committee on Financial Services of the House of Rep-  
15 resentatives and the Committee on Banking, Housing, and  
16 Urban Affairs of the Senate containing all findings and  
17 determinations made in carrying out the study required  
18 under this section.

19 (c) CLASSIFIED ANNEX.—The report required under  
20 this section may include a classified annex, if the Director  
21 determines it appropriate.

22 (d) BANK SECRECY ACT DEFINED.—For purposes of  
23 this section, the term “Bank Secrecy Act” has the mean-  
24 ing given that term under section 5312 of title 31, United  
25 States Code.

1 **SEC. 206. SHARING OF THREAT PATTERN AND TREND IN-**  
2 **FORMATION.**

3 Section 5318(g) of title 31, United States Code, as  
4 amended by section 201(a)(1), is further amended by add-  
5 ing at the end the following::

6 “(6) SHARING OF THREAT PATTERN AND  
7 TREND INFORMATION.—

8 “(A) SAR ACTIVITY REVIEW.—The Direc-  
9 tor of the Financial Crimes Enforcement Net-  
10 work shall restart publication of the ‘SAR Ac-  
11 tivity Review – Trends, Tips & Issues’, on not  
12 less than a semi-annual basis, to provide mean-  
13 ingful information about the preparation, use,  
14 and value of reports filed under this subsection  
15 by financial institutions, as well as other re-  
16 ports filed by financial institutions under the  
17 Bank Secrecy Act.

18 “(B) INCLUSION OF TYPOLOGIES.—In each  
19 publication described under subparagraph (A),  
20 the Director shall provide financial institutions  
21 with typologies, including data that can be  
22 adapted in algorithms (including for artificial  
23 intelligence and machine learning programs)  
24 where appropriate, on emerging money laun-  
25 dering and counter terror financing threat pat-  
26 terns and trends.



1           “(C) TYPOLOGY DEFINED.—For purposes  
2           of this paragraph, the term ‘typology’ means  
3           the various techniques used to launder money  
4           or finance terrorism.”.

5 **SEC. 207. MODERNIZATION AND UPGRADING WHISTLE-**  
6           **BLOWER PROTECTIONS.**

7           (a) REWARDS.—Section 5323(d) of title 31, United  
8 States Code, is amended to read as follows:

9           “(d) SOURCE OF REWARDS.—For the purposes of  
10 paying a reward under this section, the Secretary may use,  
11 without further appropriation, criminal fine, civil penalty,  
12 or forfeiture amounts recovered based on the original in-  
13 formation with respect to which the reward is being  
14 paid.”.

15           (b) WHISTLEBLOWER INCENTIVES.—

16           Chapter 53 of title 31, United States Code, is  
17 amended—

18           (1) by inserting after section 5323 the fol-  
19 lowing:

20 **“§ 5323A. Whistleblower incentives**

21           “(a) DEFINITIONS.—In this section:

22           “(1) COVERED JUDICIAL OR ADMINISTRATIVE  
23 ACTION.—The term ‘covered judicial or administra-  
24 tive action’ means any judicial or administrative ac-  
25 tion brought by FinCEN under the Bank Secrecy

1 Act that results in monetary sanctions exceeding  
2 \$1,000,000.

3 “(2) FINCEN.—The term ‘FinCEN’ means the  
4 Financial Crimes Enforcement Network.

5 “(3) MONETARY SANCTIONS.—The term ‘mone-  
6 tary sanctions’, when used with respect to any judi-  
7 cial or administrative action, means—

8 “(A) any monies, including penalties,  
9 disgorgement, and interest, ordered to be paid;  
10 and

11 “(B) any monies deposited into a  
12 disgorgement fund as a result of such action or  
13 any settlement of such action.

14 “(4) ORIGINAL INFORMATION.—The term  
15 ‘original information’ means information that—

16 “(A) is derived from the independent  
17 knowledge or analysis of a whistleblower;

18 “(B) is not known to FinCEN from any  
19 other source, unless the whistleblower is the  
20 original source of the information; and

21 “(C) is not exclusively derived from an al-  
22 legation made in a judicial or administrative  
23 hearing, in a governmental report, hearing,  
24 audit, or investigation, or from the news media,

1           unless the whistleblower is a source of the infor-  
2           mation.

3           “(5) RELATED ACTION.—The term ‘related ac-  
4           tion’, when used with respect to any judicial or ad-  
5           ministrative action brought by FinCEN, means any  
6           judicial or administrative action that is based upon  
7           original information provided by a whistleblower that  
8           led to the successful enforcement of the action.

9           “(6) SECRETARY.—The term ‘Secretary’ means  
10          the Secretary of the Treasury.

11          “(7) WHISTLEBLOWER.—The term ‘whistle-  
12          blower’ means any individual who provides, or 2 or  
13          more individuals acting jointly who provide, informa-  
14          tion relating to a violation of laws enforced by  
15          FinCEN, in a manner established, by rule or regula-  
16          tion, by FinCEN.

17          “(b) AWARDS.—

18          “(1) IN GENERAL.—In any covered judicial or  
19          administrative action, or related action, the Sec-  
20          retary, under such rules as the Secretary may issue  
21          and subject to subsection (c), shall pay an award or  
22          awards to 1 or more whistleblowers who voluntarily  
23          provided original information to FinCEN that led to  
24          the successful enforcement of the covered judicial or  
25          administrative action, or related action, in an aggre-

1 gate amount equal to not more than 30 percent, in  
2 total, of what has been collected of the monetary  
3 sanctions imposed in the action.

4 “(2) SOURCE OF AWARDS.—For the purposes of  
5 paying any award under paragraph (1), the Sec-  
6 retary may use, without further appropriation, mon-  
7 etary sanction amounts recovered based on the origi-  
8 nal information with respect to which the award is  
9 being paid.

10 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
11 NIAL OF AWARD.—

12 “(1) DETERMINATION OF AMOUNT OF  
13 AWARD.—

14 “(A) DISCRETION.—The determination of  
15 the amount of an award made under subsection  
16 (b) shall be in the discretion of the Secretary.

17 “(B) CRITERIA.—In responding to a dis-  
18 closure and determining the amount of an  
19 award made, FinCEN staff shall meet with the  
20 whistleblower to discuss evidence disclosed and  
21 rebuttals to the disclosure, and—

22 “(i) shall take into consideration—

23 “(I) the significance of the infor-  
24 mation provided by the whistleblower

1 to the success of the covered judicial  
2 or administrative action;

3 “(II) the degree of assistance  
4 provided by the whistleblower and any  
5 legal representative of the whistle-  
6 blower in a covered judicial or admin-  
7 istrative action;

8 “(III) the mission of FinCEN in  
9 deterring violations of the law by  
10 making awards to whistleblowers who  
11 provide information that lead to the  
12 successful enforcement of such laws;  
13 and

14 “(IV) such additional relevant  
15 factors as the Secretary may establish  
16 by rule; and

17 “(ii) shall not take into consideration  
18 the balance of any fund described under  
19 section 5323(d).

20 “(2) DENIAL OF AWARD.—No award under  
21 subsection (b) shall be made—

22 “(A) to any whistleblower who is, or was at  
23 the time the whistleblower acquired the original  
24 information submitted to FinCEN, a member,  
25 officer, or employee of—

1 “(i) an appropriate regulatory agency;

2 “(ii) the Department of Justice;

3 “(iii) a self-regulatory organization; or

4 “(iv) a law enforcement organization;

5 “(B) to any whistleblower who is convicted  
6 of a criminal violation, or who the Secretary  
7 has a reasonable basis to believe committed a  
8 criminal violation, related to the judicial or ad-  
9 ministrative action for which the whistleblower  
10 otherwise could receive an award under this sec-  
11 tion;

12 “(C) to any whistleblower who gains the  
13 information through the performance of an  
14 audit of financial statements required under the  
15 Bank Secrecy Act and for whom such submis-  
16 sion would be contrary to its requirements; or

17 “(D) to any whistleblower who fails to sub-  
18 mit information to FinCEN in such form as the  
19 Secretary may, by rule, require.

20 “(3) STATEMENT OF REASONS.—For any deci-  
21 sion granting or denying an award, the Secretary  
22 shall provide to the whistleblower a statement of rea-  
23 sons that includes findings of fact and conclusions of  
24 law for all material issues.

25 “(d) REPRESENTATION.—

1           “(1) PERMITTED REPRESENTATION.—Any  
2 whistleblower who makes a claim for an award under  
3 subsection (b) may be represented by counsel.

4           “(2) REQUIRED REPRESENTATION.—

5           “(A) IN GENERAL.—Any whistleblower  
6 who anonymously makes a claim for an award  
7 under subsection (b) shall be represented by  
8 counsel if the whistleblower anonymously sub-  
9 mits the information upon which the claim is  
10 based.

11           “(B) DISCLOSURE OF IDENTITY.—Prior to  
12 the payment of an award, a whistleblower shall  
13 disclose their identity and provide such other  
14 information as the Secretary may require, di-  
15 rectly or through counsel for the whistleblower.

16           “(e) APPEALS.—Any determination made under this  
17 section, including whether, to whom, or in what amount  
18 to make awards, shall be in the discretion of the Secretary.  
19 Any such determination, except the determination of the  
20 amount of an award if the award was made in accordance  
21 with subsection (b), may be appealed to the appropriate  
22 court of appeals of the United States not more than 30  
23 days after the determination is issued by the Secretary.  
24 The court shall review the determination made by the Sec-  
25 retary in accordance with section 706 of title 5.

1       “(f) EMPLOYEE PROTECTIONS.—The Secretary of  
2 the Treasury shall issue regulations protecting a whistle-  
3 blower from retaliation, which shall be as close as prac-  
4 ticable to the employee protections provided for under sec-  
5 tion 1057 of the Consumer Financial Protection Act of  
6 2010.

7       “(g) PROHIBITION ON RETALIATION.—No person  
8 may terminate or in any other way discriminate against,  
9 or cause to be terminated or discriminated against, any  
10 whistleblower by reason of the fact that the whistle-  
11 blower—

12           “(1) provided, caused to be provided, or is  
13 about to provide or cause to be provided, informa-  
14 tion to FinCEN relating to a violation of laws en-  
15 forced by FinCEN;

16           “(2) testified or will testify in any proceeding  
17 resulting from the administration or enforcement of  
18 any provision of this title or any other provision of  
19 law that is subject to the jurisdiction of the Bureau,  
20 or any rule, order, standard, or prohibition pre-  
21 scribed by the Bureau; (3) filed, instituted, or  
22 caused to be filed or instituted any proceeding under  
23 any Federal consumer financial law; or (4) objected  
24 to, or refused to participate in, any activity, policy,  
25 practice, or assigned task that the employee (or



1 other such person) reasonably believed to be in viola-  
2 tion of any law, rule, order, standard, or prohibition,  
3 subject to the jurisdiction of, or enforceable by, the  
4 Bureau.”; and

5 (2) in the table of contents for such chapter, by  
6 inserting after the item relating to section 5323 the  
7 following new item:

“5323A. Whistleblower incentives.”.

8 **SEC. 208. CERTAIN VIOLATORS BARRED FROM SERVING ON**  
9 **BOARDS OF UNITED STATES FINANCIAL IN-**  
10 **STITUTIONS.**

11 Section 5321 of title 31, United States Code, is  
12 amended by adding at the end the following:

13 “(f) CERTAIN VIOLATORS BARRED FROM SERVING  
14 ON BOARDS OF UNITED STATES FINANCIAL INSTITU-  
15 TIONS.—

16 “(1) IN GENERAL.—An individual found to  
17 have committed an egregious violation of a provision  
18 of (or rule issued under) the Bank Secrecy Act shall  
19 be barred from serving on the board of directors of  
20 a United States financial institution for a 10-year  
21 period beginning on the date of such finding.

22 “(2) EGREGIOUS VIOLATION DEFINED.—With  
23 respect to an individual, the term ‘egregious viola-  
24 tion’ means—

1           “(A) a felony criminal violation for which  
2           the individual was convicted; and

3           “(B) a civil violation where the individual  
4           willfully committed such violation and the viola-  
5           tion facilitated money laundering or the financ-  
6           ing of terrorism.”.

7   **SEC. 209. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**  
8                           **CRECY ACT VIOLATORS.**

9           (a) IN GENERAL.—Section 5321 of title 31, United  
10 States Code, as amended by section 208, is further amend-  
11 ed by adding at the end the following:

12           “(g) ADDITIONAL DAMAGES FOR REPEAT VIOLA-  
13 TORS.—In addition to any other fines permitted by this  
14 section and section 5322, with respect to a person who  
15 has previously been convicted of a criminal provision of  
16 (or rule issued under) the Bank Secrecy Act or who has  
17 admitted, as part of a deferred- or non-prosecution agree-  
18 ment, to having previously committed a violation of a  
19 criminal provision of (or rule issued under) the Bank Se-  
20 crecy Act, the Secretary may impose an additional civil  
21 penalty against such person for each additional such viola-  
22 tion in an amount equal to up three times the profit  
23 gained or loss avoided by such person as a result of the  
24 violation.”.

1 (b) PROSPECTIVE APPLICATION OF AMENDMENT.—  
2 For purposes of determining whether a person has com-  
3 mitted a previous violation under section 5321(g) of title  
4 31, United States Code, such determination shall only in-  
5 clude violations occurring after the date of enactment of  
6 this Act.

7 **SEC. 210. JUSTICE ANNUAL REPORT ON DEFERRED AND**  
8 **NON-PROSECUTION AGREEMENTS.**

9 (a) ANNUAL REPORT.—The Attorney General shall  
10 issue an annual report, every year for the five years begin-  
11 ning on the date of enactment of this Act, to the Commit-  
12 tees on Financial Services and the Judiciary of the House  
13 of Representatives and the Committees on Banking, Hous-  
14 ing, and Urban Affairs and the Judiciary of the Senate  
15 containing—

16 (1) a list of deferred prosecution agreements  
17 and non-prosecution agreements that the Attorney  
18 General has entered into during the previous year  
19 with any person with respect to a violation or sus-  
20 pected violation of the Bank Secrecy Act;

21 (2) the justification for entering into each such  
22 agreement;

23 (3) the list of factors that were taken into ac-  
24 count in determining that the Attorney General  
25 should enter into each such agreement; and

1           (4) the extent of coordination the Attorney  
2       General conducted with the Financial Crimes En-  
3       forcement Network prior to entering into each such  
4       agreement.

5       (b) CLASSIFIED ANNEX.—Each report under sub-  
6       section (a) may include a classified annex.

7       (c) BANK SECRECY ACT DEFINED.—For purposes of  
8       this section, the term “Bank Secrecy Act” has the mean-  
9       ing given that term under section 5312 of title 31, United  
10      States Code.

11      **SEC. 211. RETURN OF PROFITS AND BONUSES.**

12      (a) IN GENERAL.—Section 5322 of title 31, United  
13      States Code, is amended by adding at the end the fol-  
14      lowing:

15      “(e) RETURN OF PROFITS AND BONUSES.—A person  
16      convicted of violating a provision of (or rule issued under)  
17      the Bank Secrecy Act shall—

18           “(1) in addition to any other fine under this  
19           section, be fined in an amount equal to the profit  
20           gained by such person by reason of such violation,  
21           as determined by the court; and

22           “(2) if such person is an individual who was a  
23           partner, director, officer, or employee of a financial  
24           institution at the time the violation occurred, repay  
25           to such financial institution any bonus paid to such

1 individual during the Federal fiscal year in which  
2 the violation occurred or the Federal fiscal year  
3 after which the violation occurred.”.

4 (b) **RULE OF CONSTRUCTION.**—The amendment  
5 made by subsection (a) may not be construed to prohibit  
6 a financial institution from requiring the repayment of a  
7 bonus paid to a partner, director, officer, or employee if  
8 the financial institution determines that the partner, di-  
9 rector, officer, or employee engaged in unethical, but non-  
10 criminal, activities.

11 **SEC. 212. PROHIBITION ON TAX DEDUCTIONS FOR ATTOR-**  
12 **NEYS FEES RELATED TO BANK SECRECY ACT**  
13 **SETTLEMENTS AND COURT COSTS.**

14 Section 162(f) of the Internal Revenue Code of 1986  
15 is amended by adding at the end the following:

16 “(6) **VIOLATIONS OF THE BANK SECRECY**  
17 **ACT.**—In the case of a payment described in para-  
18 graph (1) that is in relation to any violation of the  
19 Bank Secrecy Act (as defined under section 5312 of  
20 title 31, United States Code), no deduction shall be  
21 allowed under this chapter for attorney’s fees related  
22 to such payment.”.

1 **SEC. 213. APPLICATION OF BANK SECRECY ACT TO DEAL-**  
2 **ERS IN ANTIQUITIES.**

3 (a) IN GENERAL.—Section 5312(a)(2) of title 31,  
4 United States Code, is amended—

5 (1) in subparagraph (Y), by striking “or” at  
6 the end;

7 (2) by redesignating subparagraph (Z) as sub-  
8 paragraph (AA); and

9 (3) by inserting after subsection (Y) the fol-  
10 lowing:

11 “(Z) a person trading or acting as an  
12 intermediary in the trade of antiquities, includ-  
13 ing an advisor, consultant or any other person  
14 who engages as a business in the solicitation of  
15 the sale of antiquities; or”.

16 (b) STUDY ON THE FACILITATION OF MONEY LAUN-  
17 DERING AND TERROR FINANCE THROUGH THE TRADE OF  
18 WORKS OF ART OR ANTIQUITIES.—

19 (1) STUDY.—The Secretary of the Treasury, in  
20 coordination with Federal Bureau of Investigation,  
21 the Attorney General, and Homeland Security Inves-  
22 tigation, shall perform a study on the facilitation of  
23 money laundering and terror finance through the  
24 trade of works of art or antiquities, including an  
25 analysis of—

1 (A) the extent to which the facilitation of  
2 money laundering and terror finance through  
3 the trade of works of art or antiquities may  
4 enter or affect the financial system of the  
5 United States, including any qualitative data or  
6 statistics;

7 (B) whether thresholds should apply in de-  
8 termining which entities to regulate;

9 (C) an evaluation of which markets, by  
10 size, domestic or international geographical lo-  
11 cations, or otherwise, should be subject to regu-  
12 lations;

13 (D) an evaluation of whether certain ex-  
14 emptions should apply; and

15 (E) any other points of study or analysis  
16 the Secretary determines necessary or appro-  
17 priate.

18 (2) REPORT.—Not later than the end of the  
19 180-day period beginning on the date of the enact-  
20 ment of this Act, the Secretary of the Treasury shall  
21 issue a report to the Committee on Financial Serv-  
22 ices of the House of Representatives and the Com-  
23 mittee on Banking, Housing, and Urban Affairs of  
24 the Senate containing all findings and determina-

1 tions made in carrying out the study required under  
2 paragraph (1).

3 (c) RULEMAKING.—Not later than the end of the  
4 180-day period beginning on the date the Secretary issues  
5 the report required under subsection (b)(2), the Secretary  
6 shall issue regulations to carry out the amendments made  
7 by subsection (a).

8 (d) EFFECTIVE DATE.—Section 5312(a)(2)(Z) of  
9 title 31, United States Code, as added by subsection (a),  
10 shall take effect after the end of the 360-day period begin-  
11 ning on the date of the enactment of this Act.

12 **SEC. 214. GEOGRAPHIC TARGETING ORDER.**

13 The Secretary of the Treasury shall issue a geo-  
14 graphic targeting order, similar to the order issued by the  
15 Financial Crimes Enforcement Network on November 15,  
16 2018, that—

17 (1) applies to commercial real estate to the  
18 same extent, with the exception of having the same  
19 thresholds, as the order issued by FinCEN on No-  
20 vember 15, 2018, applies to residential real estate;  
21 and

22 (2) establishes a specific threshold for commer-  
23 cial real estate.



1     **TITLE III—MODERNIZING THE**  
2                   **AML SYSTEM**

3     **SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLI-**  
4                   **ANCE.**

5           Section 5318 of title 31, United States Code, as  
6 amended by section 203, is further amended by adding  
7 at the end the following:

8           “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

9                   “(1) IN GENERAL.—The Federal functional reg-  
10           ulators shall encourage financial institutions to con-  
11           sider, evaluate, and, where appropriate, responsibly  
12           implement innovative approaches to meet the re-  
13           quirements of this subchapter, including through the  
14           use of innovation pilot programs.

15                   “(2) EXEMPTIVE RELIEF.—The Secretary, pur-  
16           suant to subsection (a), may provide exemptions  
17           from the requirements of this subchapter if the Sec-  
18           retary determines such exemptions are necessary to  
19           facilitate the testing and potential use of new tech-  
20           nologies and other innovations.

21                   “(3) RULE OF CONSTRUCTION.—This sub-  
22           section may not be construed to require financial in-  
23           stitutions to consider, evaluate, or implement innova-  
24           tive approaches to meet the requirements of the  
25           Bank Secrecy Act.

1           “(4) FEDERAL FUNCTIONAL REGULATOR DE-  
2           FINED.—In this subsection, the term ‘Federal func-  
3           tional regulator’ means the Board of Governors of  
4           the Federal Reserve System, the Comptroller of the  
5           Currency, the Federal Deposit Insurance Corpora-  
6           tion, the National Credit Union Administration, the  
7           Securities and Exchange Commission, and the Com-  
8           modity Futures Trading Commission.”.

9   **SEC. 302. INNOVATION LABS.**

10       (a) IN GENERAL.—Title 31, United States Code, is  
11       amended by inserting after section 5326 the following:

12   **“§ 5327. Innovation Labs**

13       “(a) ESTABLISHMENT.—There is established within  
14       the Department of the Treasury and each Federal func-  
15       tional regulator an Innovation Lab.

16       “(b) DIRECTOR.—The head of each Innovation Lab  
17       shall be a Director, to be appointed by the Secretary of  
18       the Treasury or the head of the Federal functional regu-  
19       lator, as applicable.

20       “(c) DUTIES.—The duties of the Innovation Lab  
21       shall be—

22           “(1) to provide outreach to law enforcement  
23           agencies, financial institutions, and other persons  
24           (including vendors and technology companies) with  
25           respect to innovation and new technologies that may

1 be used to comply with the requirements of the  
2 Bank Secrecy Act;

3 “(2) to support the implementation of respon-  
4 sible innovation and new technology, in a manner  
5 that complies with the requirements of the Bank Se-  
6 crecy Act;

7 “(3) to explore opportunities for public-private  
8 partnerships; and

9 “(4) to develop metrics of success.

10 “(d) FINCEN LAB.—The Innovation Lab established  
11 under subsection (a) within the Department of the Treas-  
12 ury shall be a lab within the Financial Crimes Enforce-  
13 ment Network.

14 “(e) FEDERAL FUNCTIONAL REGULATOR DE-  
15 FINED.—In this subsection, the term ‘Federal functional  
16 regulator’ means the Board of Governors of the Federal  
17 Reserve System, the Comptroller of the Currency, the  
18 Federal Deposit Insurance Corporation, the National  
19 Credit Union Administration, the Securities and Exchange  
20 Commission, and the Commodity Futures Trading Com-  
21 mission.”.

22 (b) CLERICAL AMENDMENT.—The table of contents  
23 for chapter 53 of title 31, United States Code, is amended  
24 by inserting after the item relating to section 5326 the  
25 following:

“5327. Innovation Labs.”.

1 **SEC. 303. INNOVATION COUNCIL.**

2 (a) IN GENERAL.—Title 31, United States Code, as  
3 amended by section 3023, is further amended by inserting  
4 after section 5327 the following:

5 **“§ 5328. Innovation Council**

6 “(a) ESTABLISHMENT.—There is established the In-  
7 novation Council (hereinafter in this section referred to  
8 as the ‘Council’), which shall consist of each Director of  
9 an Innovation Lab established under section 5327 and the  
10 Director of the Financial Crimes Enforcement Network.

11 “(b) CHAIR.—The Director of the Innovation Lab of  
12 the Department of the Treasury shall serve as the Chair  
13 of the Council.

14 “(c) DUTY.—The members of the Council shall co-  
15 ordinate on activities related to innovation under the Bank  
16 Secrecy Act, but may not supplant individual agency de-  
17 terminations on innovation.

18 “(d) MEETINGS.—The meetings of the Council—

19 “(1) shall be at the call of the Chair, but in no  
20 case may the Council meet less than semi-annually;

21 “(2) may include open and closed sessions, as  
22 determined necessary by the Council; and

23 “(3) shall include participation by public and  
24 private entities and law enforcement agencies.

25 “(e) REPORT.—The Council shall issue an annual re-  
26 port, for each of the 7 years beginning on the date of en-

1 actment of this section, to the Secretary of the Treasury  
2 on the activities of the Council during the previous year,  
3 including the success of programs as measured by metrics  
4 of success developed pursuant to section 5327(c)(4), and  
5 any regulatory or legislative recommendations that the  
6 Council may have.”.

7 (b) CLERICAL AMENDMENT.—The table of contents  
8 for chapter 53 of title 31, United States Code, is amended  
9 by inserting after the item relating to section 5327 the  
10 following:

“5328. Innovation Council.”.

11 **SEC. 304. PARALLEL RUNS RULEMAKING.**

12 (a) IN GENERAL.—Section 5318 of title 31, United  
13 States Code, as amended by section 301, is further amend-  
14 ed by adding at the end the following:

15 “(q) PARALLEL RUNS RULEMAKING.—

16 “(1) IN GENERAL.—The Secretary of the  
17 Treasury, in consultation with the head of each  
18 agency to which the Secretary has delegated duties  
19 or powers under subsection (a), shall issue a rule to  
20 specify—

21 “(A) with respect to technology and proc-  
22 esses designed to facilitate compliance with the  
23 Bank Secrecy Act requirements, under what  
24 circumstances it is necessary for a financial in-  
25 stitution to test new technology and processes

1 alongside legacy technology and processes (“par-  
2 allel runs”);

3 “(B) if parallel runs are required, what  
4 standards must be met; and

5 “(C) in what instances or under what cir-  
6 cumstance and criteria a financial institution  
7 may replace or terminate such legacy tech-  
8 nology and processes for any examinable tech-  
9 nology or process without the replacement or  
10 termination being determined an examination  
11 deficiency.

12 “(2) STANDARDS.—The standards described  
13 under paragraph (1)(B) may include—

14 “(A) an emphasis on using innovative ap-  
15 proaches, such as machine learning, rather than  
16 rules-based systems;

17 “(B) risk-based back-testing of the regime  
18 to facilitate calibration of relevant systems;

19 “(C) requirements for appropriate data  
20 privacy and security; and

21 “(D) a requirement that the algorithms  
22 used by the regime be disclosed to the Financial  
23 Crimes Enforcement Network.

24 “(3) CONFIDENTIALITY OF ALGORITHMS.—If a  
25 financial institution or any director, officer, em-

1        ployee, or agent of any financial institution, volun-  
2        tarily or pursuant to this subsection or any other au-  
3        thority, discloses the institution's monitoring algo-  
4        rithms to a Government agency, such algorithms  
5        and any materials associated with the creation of  
6        such algorithms shall be considered confidential and  
7        not subject to public disclosure.”.

8        (b) UPDATE OF MANUAL.—The Financial Institu-  
9        tions Examination Council shall ensure—

10            (1) that any manual prepared by the Council is  
11            updated to reflect the rulemaking required by the  
12            amendment made by subsection (a); and

13            (2) that financial institutions are not penalized  
14            for the decisions based on such rulemaking to re-  
15            place or terminate technology used for compliance  
16            with the Bank Secrecy Act (as defined under section  
17            5312 of title 31, United States Code) or other anti-  
18            money laundering laws.

