To make reforms to the Federal Bank Secrecy Act and anti-money laundering laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CLEAVER introduced the following bill; which was referred to the Committee on ______________________

A BILL

To make reforms to the Federal Bank Secrecy Act and anti-money laundering laws, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act of 2019” or the “COUNTER Act of 2019”.

(b) Table of Contents.—The table of contents for 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. FinCEN Compensation.
Sec. 103. Civil Liberties and Privacy Officer.
Sec. 104. Privacy and Civil Liberties Council.
Sec. 105. International coordination.
Sec. 106. Treasury Attaché 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. De-risking report.

TITLE II—IMPROVING AML/CFT OVERSIGHT

Sec. 201. 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. Section 314(a) improvements.
Sec. 207. Sharing of threat pattern and trend information.
Sec. 208. Modernization and upgrading whistleblower protections.
Sec. 209. Certain violators barred from serving on public company boards.
Sec. 211. Justice annual report on deferred and non-prosecution agreements.
Sec. 212. Return of profits and bonuses.
Sec. 213. Prohibition on tax deductions for attorney’s fees related to Bank Secrecy Act settlements and court costs.
Sec. 214. Application of Bank Secrecy Act to dealers in art or antiquities.
Sec. 215. Revision to 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 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) this subchapter.”.

**TITLE I—STRENGTHENING TREASURY**

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

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

(1) by inserting “to protect our national security, to safeguard the integrity of the international financial system, and” before “to require”; and

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

**SEC. 102. FINCEN COMPENSATION.**

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

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

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

“(d) EMPLOYEE COMPENSATION.—In fixing the compensation for employees of FinCEN, the Secretary shall—
“(1) fix such compensation without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code; and

“(2) ensure that such compensation is comparable to the compensation provided by the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.”.

SEC. 103. CIVIL LIBERTIES AND PRIVACY OFFICER.

(a) APPOINTMENT OF OFFICERS.—Not later than the end of the 3-month period beginning on the date of enactment of this Act, a Civil Liberties and Privacy Officer shall be appointed, from among individuals who are attorneys with expertise in data privacy laws—

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

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

(3) within the Internal Revenue Service Criminal Investigation, by the Secretary of the Treasury.

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

(1) be consulted each time the regulations are developed or reviewed;

(2) be consulted on information-sharing activities, including activities that provide access to personally identifiable information; and

(3) contribute to the evaluation and regulation of new technologies.

(c) Federal Financial Regulator Defined.—

For purposes of this section, the term “Federal financial regulator” means the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

SEC. 104. PRIVACY AND CIVIL LIBERTIES COUNCIL.

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

(b) Chair.—The Civil Liberties and Privacy Officer of the Financial Crimes Enforcement Network shall serve as the Chair of the Council.
(c) **DUTY.**—The members of the Council shall coordinate on activities related to their duties as Privacy and Civil Liberties Officers.

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

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

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

(3) may include participation by public and private entities and law enforcement agencies.

(e) **REPORT.**—The Council shall issue an annual report to the Congress on the activities of the Council during the previous year and any legislative recommendations that the Council may have.

**SEC. 105. INTERNATIONAL COORDINATION.**

The Secretary of the Treasury shall work with the Secretary’s foreign counterparts, including through the Financial Action Task Force, the International Monetary Fund, the World Bank, and the United Nations, to promote stronger anti-money laundering frameworks and enforcement of anti-money laundering laws.

**SEC. 106. TREASURY ATTACHÉ PROGRAM.**

(a) **IN GENERAL.**—Title 31, United States Code, is amended by inserting after section 315 the following:
§ 316. Treasury Attacheé Program

(a) In general.—There is established the Treasury Attacheé Program, under which the Secretary of the Treasury shall appoint employees of the Department of the Treasury as a Treasury attacheé, who shall—

“(1) have expertise in Bank Secrecy Act and anti-money laundering issues;

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

“(3) perform outreach with respect to Bank Secrecy Act and anti-money laundering issues;

“(4) establish and maintain relationships with foreign counterparts, including employees of ministries of finance, central banks, and other relevant official entities;

“(5) conduct outreach to local and foreign financial institutions and other commercial actors, including—

“(A) information exchanges; and

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

“(i) United States and multilateral sanctions; and

“(ii) international standards on anti-money laundering and the countering of the financing of terrorism; and
“(6) perform such other actions as the Secretary determines appropriate.

“(b) NUMBER OF ATTACHÉS.—The number of Treasury attaché s appointed under this section at any one time shall be not fewer than 6 more employees than the number of employees of the Department of the Treasury serving as Treasury attaché s on March 1, 2019.

“(c) COMPENSATION.—Each Treasury attaché appointed under this section and located at a United States embassy shall receive compensation at the higher of—

“(1) the rate of compensation provided to a Foreign Service officer serving at the same embassy; or

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

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

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 31, United States Code, is amended by inserting after the item relating to section 315 the following:

“316. Treasury Attaché Program.”.
SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR INTERNATIONAL COOPERATION.

There is authorized to be appropriated for fiscal year 2020 to the Secretary of the Treasury for purposes of providing technical assistance for international cooperation an amount equal to twice the amount authorized for such purpose for fiscal year 2019.

SEC. 108. FINCEN DOMESTIC LIAISONS.

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

“(e) FINCEN DOMESTIC LIAISONS.—

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

“(A) each be assigned to focus on a specific region of the United States;

“(B) be located at an office in such region (or co-located at an office of another Federal agency in such region);

“(C) provide education to, and coordination with, both public- and private-sector entities with respect to FinCEN; and

“(D) perform outreach to financial institutions (including non-bank financial institutions) and persons who are not financial institutions,
especially with respect to actions taken by
FinCEN that require specific actions by, or
have specific effects on, such institutions or
persons, as determined by the Director.

“(2) Financial institution defined.—In
this subsection, the term ‘financial institution’ has
the meaning given that term under section 5312.”.

SEC. 109. FINCEN EXCHANGE.

(a) In general.—Section 314(a) of the USA PA-
TRIOT Act (31 U.S.C. 5311 note) is amended by adding
at the end the following:

“(6) FinCEN Exchange.—

“(A) Establishment.—The FinCEN Ex-
change is hereby established within FinCEN,
which shall consist of the FinCEN Exchange
program of FinCEN in existence on the day be-
fore the date of enactment of this paragraph.

“(B) Purpose.—The FinCEN Exchange
shall further the purpose described under para-
graph (1) by facilitating a voluntary public-pri-
private information sharing partnership among
law enforcement, financial institutions, and
FinCEN to—
“(i) effectively and efficiently combat money laundering, terrorism financing, organized crime, and other financial crimes;
“(ii) protect the financial system from illicit use; and
“(iii) promote national security.

“(C) FinCEN Defined.—In this paragraph, the term ‘FinCEN’ means the Financial Crimes Enforcement Network of the Department of the Treasury.”.

(b) Authorization of Appropriation.—There is authorized to be appropriated such sums as may be necessary to carry out the amendment made by subsection (a).

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

(a) Study.—The Secretary of the Treasury shall carry out a study, in consultation with other appropriate Federal departments and agencies, on trade-based money laundering.

(b) Report.—Not later than the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary shall issue a report to the Congress containing—
(1) all findings and determinations made in carrying out the study required under subsection (a); and

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

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

SEC. 111. DE-RISKING REPORT.

(a) REVIEW.—The Secretary of the Treasury, in consultation with the Federal functional regulators (as defined under section 103) and other relevant stakeholders, shall undertake a formal review of—

(1) the adverse consequences of financial institutions de-risking entire categories of relationships, including charities, embassy accounts, money services businesses (as defined under section 1010.100(ff) of title 31, Code of Federal Regulations), countries, regions, and respondent banks;

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

(3) the association with and effects of de-risking on money laundering and financial crime actors and activities; and
(4) the most appropriate ways to promote financial inclusion while maintaining compliance with the Bank Secrecy Act.

(b) REPORT.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Federal functional regulators and other relevant stakeholders, shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a).

(c) DEFINITIONS.—In this section:

(1) DE-RISKING.—The term “de-risking” means the closing of customer accounts or limiting services of a category of customer due to perceived risk as it relates to compliance with the Bank Secrecy Act.

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

TITLE II—IMPROVING AML/CFT OVERSIGHT

SEC. 201. 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, in consultation with the Civil Liberties and Privacy Officer of the Financial Crimes Enforcement Network, 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. 202. TRAINING FOR EXAMINERS ON AML/CFT.


(1) by moving section 1009A so as to appear after section 1009; and

(2) by inserting after section 1009A, as so moved, the following:

“SEC. 1009B. AML/CFT TRAINING.

“(a) TRAINING REQUIREMENT.—Each examiner employed by a Federal financial institutions regulatory agency shall attend at least 10 hours of annual training on anti-money laundering (AML) and the countering of the financing of terrorism (CFT), including—

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

“(2) financial crime patterns and trends;

“(3) the high-level context for why AML and CFT programs are necessary for law enforcement agencies and other national security agencies, and what risks the programs seek to mitigate; and
“(4) de-risking and its effect on the provision of financial services.

“(b) TRAINING MATERIALS AND STANDARDS.—The Council shall establish uniform training materials and standards for use in the training required under subsection (a).”.

SEC. 203. SHARING OF COMPLIANCE RESOURCES.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

“(o) SHARING OF COMPLIANCE RESOURCES.—

“(1) SHARING PERMITTED.—Two or more financial institutions may enter into collaborative arrangements in order to more efficiently comply with the requirements of this subchapter.

“(2) OUTREACH.—The Secretary of the Treasury and the appropriate supervising agencies shall carry out an outreach program to provide financial institutions with information, including best practices, with respect to the sharing of resources described under paragraph (1).”.

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) may not be construed to require financial institutions to share resources.
SEC. 204. GAO STUDY ON FEEDBACK LOOPS.

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

(1) practices within the United States Government for providing feedback ("feedback loop") to relevant parties (including regulated private entities) on the usage and usefulness of personally identifiable information ("PII"), sensitive-but-unclassified ("SBU") data, or similar information provided by such parties to Government users of such information and data (including law enforcement or regulators); and

(2) any practices or standards outside the United States for providing feedback loops on sensitive information and public-private partnership information sharing efforts, specifically related to efforts to combat money laundering and other forms of illicit finance.

(b) REPORT.—Not later than the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing—
(1) all findings and determinations made in carrying out the study required under subsection (a); and

(2) with respect to each of paragraphs (1) and (2) of subsection (a), any best practices or significant concerns identified by the Comptroller General, and their applicability to public-private partnerships and feedback loops with respect to U.S. efforts to combat money laundering and other forms of illicit finance.

SEC. 205. FINCEN STUDY ON BSA VALUE.

(a) Study.—The Director of the Financial Crimes Enforcement Network shall carry out a study on Bank Secrecy Act value.

(b) Report.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Director shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations made in carrying out the study required under this section.

(e) Classified Annex.—The report required under this section may include a classified annex, if the Director determines it appropriate.
(d) **Bank Secrecy Act Defined.**—For purposes of this section, the term “Bank Secrecy Act” has the meaning given that term under section 5312 of title 31, United States Code.

**SEC. 206. SECTION 314(a) IMPROVEMENTS.**

Section 314(a) of the USA PATRIOT Act (31 U.S.C. 5311 note), as amended by section 109, is further amended by adding at the end the following:

“(7) **Point of Contact List.**—

“(A) **In General.**—The Secretary shall maintain a list containing contact information for with respect to a law enforcement agency, those individuals who serve as points of contact for a Suspicious Activity Report review committee.

“(B) **Availability of List.**—The Secretary shall make the list of contact information described under subparagraph (A) available to all financial institutions and law enforcement agencies.”.

**SEC. 207. SHARING OF THREAT PATTERN AND TREND INFORMATION.**

Section 314(a) of the USA PATRIOT Act (31 U.S.C. 5311 note), as amended by section 206, is further amended by adding at the end the following:
“(8) Sharing of threat pattern and trend information.—

“(A) In general.—Not less than monthly, the Secretary shall provide financial institutions with typologies on emerging money laundering and counter terror financing threat patterns and trends.

“(B) Information classification.—In providing information pursuant to subparagraph (A), the Secretary may provide public and sensitive information to financial institutions, but may not provide classified information, unless otherwise permitted by law.”.

SEC. 208. MODERNIZATION AND UPGRADING WHISTLEBLOWER PROTECTIONS.

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

“(d) Source of rewards.—For the purposes of paying an award under this section, there are authorized to be appropriated such sums as may be necessary, and the Secretary may also use funds from the Department of the Treasury Forfeiture Fund and the Department of Justice Assets Forfeiture Fund.”.

(b) Whistleblower incentives.—
Chapter 53 of title 31, United States Code, is amended—

(1) by inserting after section 5323 the following:

“§ 5323A. Whistleblower incentives

“(a) DEFINITIONS.—In this section:

“(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term ‘covered judicial or administrative action’ means any judicial or administrative action brought by FinCEN under the Bank Secrecy Act that results in monetary sanctions exceeding $1,000,000.

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

“(3) MONETARY SANCTIONS.—The term ‘monetary sanctions’, when used with respect to any judicial or administrative action, means—

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

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

“(4) ORIGINAL INFORMATION.—The term ‘original information’ means information that—
“(A) is derived from the independent knowledge or analysis of a whistleblower;

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

“(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

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

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

“(7) WHISTLEBLOWER.—The term ‘whistleblower’ means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of laws enforced by FinCEN, in a manner established, by rule or regulation, by FinCEN.
“(b) AWARDS.—

“(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under such rules as the Secretary may issue and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to FinCEN that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

“(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

“(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

“(2) SOURCE OF AWARDS.—For the purposes of paying any award under paragraph (1) there are authorized to be appropriated such sums as may be necessary, and the Secretary may also use funds from the Department of the Treasury Forfeiture Fund and the Department of Justice Assets Forfeiture Fund.
“(c) Determination of Amount of Award; Denial of Award.—

“(1) Determination of amount of award.—

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

“(B) Criteria.—In responding to a disclosure and determining the amount of an award made, FinCEN staff shall meet with the whistleblower to discuss evidence disclosed and rebuttals to the disclosure, and—

“(i) shall take into consideration—

“(I) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

“(II) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

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

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

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

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

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

“(i) an appropriate regulatory agency;

“(ii) the Department of Justice;

“(iii) a self-regulatory organization; or

“(iv) a law enforcement organization;

“(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;
“(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the Bank Secrecy Act and for whom such submission would be contrary to its requirements; or
“(D) to any whistleblower who fails to submit information to FinCEN in such form as the Secretary may, by rule, require.
“(3) STATEMENT OF REASONS.—For any decision granting or denying an award, the Secretary shall provide to the whistleblower a statement of reasons that includes findings of fact and conclusions of law for all material issues.
“(d) REPRESENTATION.—
“(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.
“(2) REQUIRED REPRESENTATION.—
“(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.
“(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose their identity and provide such other information as the Secretary may require, directly or through counsel for the whistleblower.

“(e) APPEALS.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Secretary. Any such determination, except the determination of the amount of an award if the award was made in accordance with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Secretary. The court shall review the determination made by the Secretary in accordance with section 706 of title 5.”; and

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

“5323A. Whistleblower incentives.”.

SEC. 209. CERTAIN VIOLATORS BARRED FROM SERVING ON PUBLIC COMPANY BOARDS.

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

“(f) CERTAIN VIOLATORS BARRED FROM SERVING ON PUBLIC COMPANY BOARDS.—
“(1) IN GENERAL.—An individual found to have committed an egregious violation of a provision of (or rule issued under) this subchapter, section 21 of the Federal Deposit Insurance Act, or section 123 of Public Law 91–508 shall be barred from serving on the board of directors of a public company for a 10-year period beginning on the date of such finding.

“(2) DEFINITIONS.—In this subsection:

“(A) EGREGIOUS VIOLATION.—With respect to an individual, the term ‘egregious violation’ means—

“(i) a felony criminal violation for which the individual was convicted; and

“(ii) a civil violation where the individual knowingly committed such violation and the violation facilitated money laundering or the financing of terrorism.

“(B) PUBLIC COMPANY.—The term ‘public company’ means an issuer the securities of which are traded on a national securities exchange.

“(C) OTHER SECURITIES TERMS.—The terms ‘issuer’ and ‘national securities exchange’ have the meaning given those terms, respec-
tively, under section 3 of the Securities Exchange Act of 1934.”.

SEC. 210. ADDITIONAL DAMAGES FOR REPEAT BANK SECRECY ACT VIOLATORS.

Section 5321 of title 31, United States Code, as amended by section 209, is further amended by adding at the end the following:

“(g) ADDITIONAL DAMAGES FOR REPEAT VIOLATORS.—In addition to any other fines permitted by this section and section 5322, with respect to a person who has previously violated a provision of (or rule issued under) this subchapter, section 21 of the Federal Deposit Insurance Act, or section 123 of Public Law 91–508, the Secretary may impose an additional civil penalty against such person for each additional such violation in an amount equal to up three times the profit gained or loss avoided by such person as a result of the violation.”.

SEC. 211. JUSTICE ANNUAL REPORT ON DEFERRED AND NON-PROSECUTION AGREEMENTS.

(a) ANNUAL REPORT.—The Attorney General shall issue an annual report, every year for the five years beginning on the date of enactment of this Act, to the Committees on Financial Services and the Judiciary of the House of Representatives and the Committees on Banking, Hous-
(1) a list of deferred prosecution agreements and non-prosecution agreements that the Attorney General has entered into during the previous year with any person with respect to a violation or suspected violation of the Bank Secrecy Act;

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

(3) the list of factors that were taken into account in determining that the Attorney General should enter into each such agreement; and

(4) the extent of coordination the Attorney General conducted with the Financial Crimes Enforcement Network prior to entering into each such agreement.

(b) Classified Annex.—Each report under subsection (a) may include a classified annex.

(c) Bank Secrecy Act Defined.—For purposes of this section, the term “Bank Secrecy Act” has the meaning given that term under section 5312 of title 31, United States Code.

SEC. 212. Return of Profits and Bonuses.

Section 5322 of title 31, United States Code, is amended by adding at the end the following:
“(e) RETURN OF PROFITS AND BONUSES.—A person convicted of violating a provision of (or rule issued under) this subchapter, section 21 of the Federal Deposit Insurance Act, or section 123 of Public Law 91–508 shall—

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

“(2) if such person is an individual who was a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business at the time the violation occurred, repay to such domestic financial institution or nonfinancial trade or business any bonus paid to such individual during the Federal fiscal year in which the violation occurred.”.

SEC. 213. PROHIBITION ON TAX DEDUCTIONS FOR ATTORNEY’S FEES RELATED TO BANK SECRECY ACT SETTLEMENTS AND COURT COSTS.

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

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

SEC. 214. APPLICATION OF BANK SECRECY ACT TO DEALERS IN ART OR ANTIQUITIES.

(a) In General.—Section 5312(a)(2) of title 31, United States Code, is amended—

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

(2) by redesignating subparagraph (Z) as subparagraph (AA); and

(3) by inserting after subsection (Y) the following:

“(Z) dealers in art or antiquities; or”.

(b) Rulemaking.—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 issue regulations to carry out the amendments made by subsection (a).

(c) Effective Date.—Section 5312(a)(2)(Z) of title 31, United States Code, as added by subsection (a), shall take effect after the end of the 270-day period beginning on the date of the enactment of this Act.
SEC. 215. REVISION TO GEOGRAPHIC TARGETING ORDER.

The Secretary of the Treasury shall revise the geographic targeting order issued by the Financial Crimes Enforcement Network on November 15, 2018 (the “Order”), so that the Order—

(1) applies to commercial real estate to the same extent as the Order applies to residential real estate; and

(2) applies to a purchase made, at least in part, using an in-kind transaction to the same extent as the Order applies to a purchase made, at least in part, using currency or a cashier’s check, a certified check, a traveler’s check, a personal check, a business check, a money order in any form, a funds transfer, or virtual currency.

TITLE III—MODERNIZING THE AML SYSTEM

SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLIANCE.

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

“(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

“(1) IN GENERAL.—The financial agencies shall encourage financial institutions to consider, evaluate, and, where appropriate, responsibly implement inno-
vative approaches to meet the requirements of this subchapter, including through the use of innovation pilot programs.

“(2) EXEMPTIVE RELIEF.—The Secretary, pursuant to subsection (a), may provide exemptions from the requirements of this subchapter if the Secretary determines such exemptions are necessary to facilitate the testing and potential use of new technologies and other innovations.

“(3) FINANCIAL AGENCY DEFINED.—In this subsection, the term ‘financial agency’ means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission.”.

SEC. 302. INNOVATION LABS.

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

“§ 5327. Innovation Labs

“(a) ESTABLISHMENT.—There is established within each financial agency an Innovation Lab.
“(b) DIRECTOR.—The head of each Innovation Lab shall be a Director, to be appointed by the head of the applicable financial agency.

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

“(1) to provide outreach to law enforcement agencies, financial institutions, and other persons (including vendors and technology companies) with respect to innovation and new technologies used to comply with the requirements of the Bank Secrecy Act; and

“(2) to support the implementation of responsible innovation and new technology, in a manner that complies with the requirements of the Bank Secrecy Act.

“(d) FINCEN LAB.—The Innovation Lab established under subsection (a) within the Department of the Treasury shall be a lab within the Financial Crimes Enforcement Network.

“(e) FINANCIAL AGENCY DEFINED.—In this section, the term ‘financial agency’ means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the
Comptroller of the Currency, and the Securities and Exchange Commission.”.

(b) Clerical Amendment.—The table of contents for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following:

“5327. Innovation Labs.”.

SEC. 303. INNOVATION COUNCIL.

(a) Establishment.—There is established the Innovation Council (hereinafter in this section referred to as the “Council”), which shall consist of each Director of an Innovation Lab established under section 302 and the Director of the Financial Crimes Enforcement Network.

(b) Chair.—The Director of the Innovation Lab of the Department of the Treasury shall serve as the Chair of the Council.

(c) Duty.—The members of the Council shall coordinate on activities related to innovation under the Bank Secrecy Act (as defined under section 5312 of title 31, United States Code).

(d) Meetings.—The meetings of the Council—

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

(2) may include open and closed sessions, as determined necessary by the Council; and
(3) may include participation by public and private entities and law enforcement agencies.

(c) REPORT.—The Council shall issue an annual report to the Congress on the activities of the Council during the previous year and any legislative recommendations that the Council may have.

SEC. 304. PARALLEL RUNS RULEMAKING.

Section 5318 of title 31, United States Code, as amended by section 301, is further amended by adding at the end the following:

“(q) PARALLEL RUNS RULEMAKING.—The Secretary of the Treasury, in consultation with the Director of the Financial Crimes Enforcement Network and the head of each agency to which the Secretary has delegated duties or powers under subsection (a), shall issue a rule to specify—

“(1) with respect to technology and processes designed to facilitate compliance with the Bank Secrecy Act requirements, under what circumstances it is necessary for a financial institution to test new technology and processes alongside legacy technology and processes (‘parallel runs’);

“(2) if parallel runs are required, what tests must be completed; and
“(3) in what instances or under what circumstances a financial institution may replace or terminate such legacy technology and processes for any examinable technology or process.”.