To amend title 31, United States Code, to authorize the Secretary of the Treasury to place prohibitions or conditions on certain transmittals of funds in connection with jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2022

Mr. HIMES introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend title 31, United States Code, to authorize the Secretary of the Treasury to place prohibitions or conditions on certain transmittals of funds in connection with jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Special Measures to Fight Modern Threats Act”.

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SEC. 2. FINDINGS.

Congress finds the following:

(1) The Financial Crimes Enforcement Network (FinCEN) is the Financial Intelligence Unit of the United States tasked with safeguarding the financial system from illicit use, combating money laundering and its related crimes including terrorism, and promoting national security.

(2) Per statute, FinCEN may require domestic financial institutions and financial agencies to take certain “special measures” against jurisdictions, institutions, classes of transactions, or types of accounts determined to be of primary money laundering concern, providing the Secretary with a range of options, such as enhanced record-keeping, that can be adapted to target specific money laundering and terrorist financing and to bring pressure on those that pose money laundering threats.

(3) This special-measures authority was granted in 2001, when most cross-border transactions occurred through correspondent or payable-through accounts held with large financial institutions which serve as intermediaries to facilitate financial transactions on behalf of other banks.

(4) Innovations in financial services have transformed and expanded methods of cross-border trans-
actions that could not have been envisioned 20 years ago when FinCEN was given its special-measures authority.

(5) These innovations, particularly through digital assets and informal value transfer systems, while useful to legitimate consumers and law enforcement, can be tools abused by bad actors like sanctions evaders, fraudsters, money launderers, and those who commit ransomware attacks on victimized U.S. companies and which abuse the financial system to move and obscure the proceeds of their crimes.

(6) Ransomware attacks on U.S. companies requiring payments in cryptocurrencies have increased in recent years, with the U.S. Treasury estimating that ransomware payments in the United States reached $590 million in just the first half of 2021, compared to a total of $416 million in 2020.

(7) In July 2021, the White House, with support of U.S. allies, asserted that the People’s Republic of China was responsible for ransomware operations against private companies that included demands of millions of dollars, including the 2021 ransomware attacks that breached Microsoft email systems and affected thousands of consumers, State and local municipalities, and government contractors.
attributed to a cyber espionage group with links to the Chinese Ministry of State Security.

(8) As ransomware attacks organized by Chinese and other foreign bad actors continue to grow in size and scope, modernizing FinCEN’s special measure authorities will empower FinCEN to adapt its existing tools, monitor and obstruct global financial threats, and meet the challenges of combating 21st century financial crime.

SEC. 3. PROHIBITIONS OR CONDITIONS ON CERTAIN TRANSMITTALS OF FUNDS.

Section 5318A of title 31, United States Code, is amended—

(1) in subsection (a)(2)(C), by striking “subsection (b)(5)” and inserting “paragraphs (5) and (6) of subsection (b)”;

(2) in subsection (b)—

(A) in paragraph (5), by striking “for or on behalf of a foreign banking institution”; and

(B) by adding at the end the following:

“(6) PROHIBITIONS OR CONDITIONS ON CERTAIN TRANSMITTALS OF FUNDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more types of accounts with-
in, or involving, a jurisdiction outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon certain transmittals of funds (as such term may be defined by the Secretary in a special measure issuance, by regulation, or as otherwise permitted by law), to or from any domestic financial institution or domestic financial agency if such transmittal of funds involves any such jurisdiction, institution, type of account, or class of transaction.”. 