

117TH CONGRESS
1ST SESSION

H. R. 1786

To end offshore corporate tax avoidance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2021

Mr. DOGGETT (for himself, Mr. BLUMENAUER, Mr. COHEN, Mr. DANNY K. DAVIS of Illinois, Mr. DEFazio, Ms. DELAURO, Mr. GARAMENDI, Mr. GRIJALVA, Ms. JAYAPAL, Ms. JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. MFUME, Mr. NADLER, Mr. RASKIN, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. TONKO, Ms. WATERS, Mrs. WATSON COLEMAN, and Mr. CARTWRIGHT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To end offshore corporate tax avoidance, and for other purposes.

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

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Stop Tax Haven Abuse Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENDING CORPORATE OFFSHORE TAX AVOIDANCE

Sec. 101. Repeal of check-the-box rules for certain foreign entities and CFC
 look-thru rules.

Sec. 102. Swap payments made from the United States to persons offshore.

Sec. 103. Requirement to disclose total corporate taxes paid.

Sec. 104. Penalty for election to pay tax on deferred foreign income in install-
 ments.

Sec. 105. Modifications to base erosion and anti-abuse tax.

Sec. 106. Treatment of foreign base company oil related income as subpart F
 income.

Sec. 107. Modifications of foreign tax credit rules applicable to dual capacity
 taxpayers.

Sec. 108. Treatment of intangibles transferred to partnerships.

TITLE II—ADDITIONAL MEASURES TO COMBAT TAX EVASION

Sec. 201. Authorizing special measures against foreign jurisdictions, financial
 institutions, and others that significantly impede United States
 tax enforcement.

Sec. 202. Strengthening the Foreign Account Tax Compliance Act (FATCA).

Sec. 203. Reporting United States beneficial owners of foreign owned financial
 accounts.

Sec. 204. Penalty for failing to disclose offshore holdings.

Sec. 205. Deadline for anti-money laundering rule for investment advisers.

Sec. 206. Anti-money laundering requirements for formation agents.

Sec. 207. Strengthening John Doe summons proceedings.

Sec. 208. Improving enforcement of foreign financial account reporting.

1 **TITLE I—ENDING CORPORATE**
2 **OFFSHORE TAX AVOIDANCE**

3 **SEC. 101. REPEAL OF CHECK-THE-BOX RULES FOR CERTAIN**
4 **FOREIGN ENTITIES AND CFC LOOK-THRU**
5 **RULES.**

6 (a) CHECK-THE-BOX RULES.—Paragraph (3) of sec-
7 tion 7701(a) is amended—

8 (1) by striking “and”, and

9 (2) by inserting after “insurance companies”
10 the following: “, and any foreign business entity
11 that—

12 “(A) has a single owner that does not have
13 limited liability, or

14 “(B) has one or more members all of
15 which have limited liability”.

16 (b) LOOK-THRU RULE.—Subparagraph (C) of sec-
17 tion 954(c)(6) is amended to read as follows:

18 “(C) TERMINATION.—Subparagraph (A)
19 shall not apply to dividends, interest, rents, and
20 royalties received or accrued after the date of
21 the enactment of the Stop Tax Haven Abuse
22 Act.”.

23 (c) EFFECTIVE DATE.—

1 (1) The amendments made by subsection (a)
2 shall take effect on the date of the enactment of this
3 Act.

4 (2) The amendment made by subsection (b)
5 shall apply to payments received after the date of
6 the enactment of this Act.

7 **SEC. 102. SWAP PAYMENTS MADE FROM THE UNITED**
8 **STATES TO PERSONS OFFSHORE.**

9 (a) TAX ON SWAP PAYMENTS RECEIVED BY FOR-
10 EIGN PERSONS.—Section 871(a)(1) is amended—

11 (1) by inserting “swap payments (as identified
12 in section 1256(b)(2)(B)),” after “annuities,” in
13 subparagraph (A), and

14 (2) by adding at the end the following new sen-
15 tence: “In the case of swap payments, the source of
16 a swap payment is determined by reference to the lo-
17 cation of the payor.”.

18 (b) TAX ON SWAP PAYMENTS RECEIVED BY FOR-
19 EIGN CORPORATIONS.—Section 881(a) is amended—

20 (1) by inserting “swap payments (as identified
21 in section 1256(b)(2)(B)),” after “annuities,” in
22 paragraph (1), and

23 (2) by adding at the end the following new sen-
24 tence: “In the case of swap payments, the source of

1 a swap payment is determined by reference to the lo-
2 cation of the payor.”.

3 **SEC. 103. REQUIREMENT TO DISCLOSE TOTAL CORPORATE**
4 **TAXES PAID.**

5 (a) IN GENERAL.—Section 13 of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 78m) is amended by add-
7 ing at the end the following new subsection:

8 “(s) DISCLOSURE OF TOTAL CORPORATE TAXES
9 PAID.—

10 “(1) ISSUER DISCLOSURE REQUIREMENT.—
11 Each issuer required to file an annual or quarterly
12 report under subsection (a) shall disclose in that re-
13 port—

14 “(A) the total pre-tax profit of the issuer
15 during the period covered by the report;

16 “(B) the total amount paid by the issuer
17 in State taxes during the period covered by the
18 report;

19 “(C) the total amount paid by the issuer in
20 Federal taxes during the period covered by the
21 report; and

22 “(D) the total amount paid by the issuer
23 in foreign taxes during the period covered by
24 the report.

1 “(2) DISCLOSURE OF COUNTRY-BY-COUNTRY
2 REPORTING INFORMATION.—Each issuer required to
3 file an annual or quarterly report under subsection
4 (a) shall disclose in that report, for each of its sub-
5 sidiaries and aggregated on a country-by-country
6 basis—

7 “(A) revenues generated from transactions
8 with other constituent entities;

9 “(B) revenues not generated from trans-
10 actions with other constituent entities;

11 “(C) profit or loss before income tax;

12 “(D) total income tax paid on a cash basis
13 to all tax jurisdictions, and any taxes withheld
14 on payments received by the constituent enti-
15 ties;

16 “(E) total accrued tax expense recorded on
17 taxable profits or losses, reflecting only oper-
18 ations in the relevant annual period and exclud-
19 ing deferred taxes or provisions for uncertain
20 tax liabilities;

21 “(F) stated capital, except that the stated
22 capital of a permanent establishment must be
23 reported in the tax jurisdiction of residence of
24 the legal entity of which it is a permanent es-
25 tablishment unless there is a defined capital re-

1 quirement in the permanent establishment tax
2 jurisdiction for regulatory purposes;

3 “(G) total accumulated earnings, except
4 that accumulated earnings of a permanent es-
5 tablishment must be reported by the legal entity
6 of which it is a permanent establishment;

7 “(H) total number of employees on a full-
8 time equivalent basis; and

9 “(I) net book value of tangible assets,
10 which, for purposes of this section, does not in-
11 clude cash or cash equivalents, intangibles, or
12 financial assets.

13 “(3) AVAILABILITY OF INFORMATION.—The
14 Commission shall make the information filed with
15 the Commission pursuant to this subsection publicly
16 available through the Commission website in a man-
17 ner that is searchable, sortable, and downloadable.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to disclosures made after the date
20 of the enactment of this Act.

21 **SEC. 104. PENALTY FOR ELECTION TO PAY TAX ON DE-**
22 **FERRED FOREIGN INCOME IN INSTALL-**
23 **MENTS.**

24 (a) IN GENERAL.—Section 965(h) is amended by
25 adding at the end the following new paragraph:

1 “(7) PENALTY.—Interest on installments under
 2 this subsection shall be payable as determined under
 3 section 6601 by treating the last date prescribed for
 4 payment for any installment as the date for payment
 5 of the first installment under this subsection.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall take effect as if included in section
 8 14103 of Public Law 115–97.

9 **SEC. 105. MODIFICATIONS TO BASE EROSION AND ANTI-**
 10 **ABUSE TAX.**

11 (a) REDUCTION OF EXEMPTION BASED ON ANNUAL
 12 GROSS RECEIPTS.—Section 59A(e)(1)(B) is amended by
 13 striking “\$500,000,000” and inserting “\$100,000,000”.

14 (b) ELIMINATION OF EXCEPTION BASED ON BASE
 15 EROSION PERCENTAGE.—Section 59(e)(1) is amended by
 16 inserting “and” at the end of subparagraph (A), by strik-
 17 ing “, and” at the end of subparagraph (B) and inserting
 18 a period, and by striking subparagraph (C).

19 (c) CERTAIN CAPITALIZED AMOUNTS INCLUDED AS
 20 BASE EROSION PAYMENTS.—Section 59A(d) is amended
 21 by redesignating paragraphs (4) and (5) as paragraphs
 22 (5) and (6), respectively, and by inserting after paragraph
 23 (3) the following new paragraph:

24 “(4) CERTAIN CAPITALIZED AMOUNTS.—Such
 25 term shall also include any interest, royalty, or any

1 other amount identified by the Secretary that is paid
 2 or accrued by the taxpayer to a foreign person which
 3 is a related party of the taxpayer and with respect
 4 to which the taxpayer increases the value of property
 5 under section 1016 or any other provision of this
 6 title.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 the date of the enactment of this Act.

10 **SEC. 106. TREATMENT OF FOREIGN BASE COMPANY OIL RE-**
 11 **LATED INCOME AS SUBPART F INCOME.**

12 (a) IN GENERAL.—Section 954(a) is amended by
 13 striking “and” at the end of paragraph (2), by striking
 14 the period at the end of paragraph (3) and inserting “,
 15 and”, and by adding at the end the following new para-
 16 graph:

17 “(4) the foreign base company oil related in-
 18 come for the taxable year (determined under sub-
 19 section (g) and reduced as provided in subsection
 20 (b)(5)).”.

21 (b) FOREIGN BASE COMPANY OIL RELATED IN-
 22 COME.—Section 954 is amended by inserting after sub-
 23 section (e) the following new subsection:

24 “(g) FOREIGN BASE COMPANY OIL RELATED IN-
 25 COME.—For purposes of this section, the term ‘foreign

1 base company oil related income’ means foreign oil related
 2 income (within the meaning of paragraphs (2) and (3) of
 3 section 907(c)) other than income derived from a source
 4 within a foreign country in connection with—

5 “(1) oil or gas which was extracted from an oil
 6 or gas well located in such foreign country, or

7 “(2) oil, gas, or a primary product of oil or gas
 8 which is sold by the foreign corporation or a related
 9 person for use or consumption within such country
 10 or is loaded in such country on a vessel or aircraft
 11 as fuel for such vessel or aircraft.

12 Such term shall not include any foreign personal holding
 13 company income (as defined in subsection (c)).”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 952(c)(1)(B)(iii) is amended by re-
 16 designating subclauses (III) and (IV) as subclauses
 17 (IV) and (V), respectively, and by inserting after
 18 subclause (II) the following new subclause:

19 “(III) foreign base company oil
 20 related income.”.

21 (2) Section 954(b) is amended—

22 (A) by striking “and the foreign base com-
 23 pany services income” in paragraph (5) and in-
 24 serting “the foreign base company services in-

1 come, and the foreign base company oil related
2 income”, and

3 (B) by adding at the end the following new
4 paragraph:

5 “(6) FOREIGN BASE COMPANY OIL RELATED IN-
6 COME NOT TREATED AS ANOTHER KIND OF BASE
7 COMPANY INCOME.—Income of a corporation which
8 is foreign base company oil related income shall not
9 be considered foreign base company income of such
10 corporation under paragraph (2) or (3) of subsection
11 (a).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years of foreign corpora-
14 tions beginning after the date of the enactment of this
15 Act, and to taxable years of United States shareholders
16 in which or with which such taxable years of foreign cor-
17 porations end.

18 **SEC. 107. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

19 **APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

20 (a) IN GENERAL.—Section 901 of the Internal Rev-
21 enue Code of 1986 is amended by redesignating subsection
22 (n) as subsection (o) and by inserting after subsection (m)
23 the following new subsection:

24 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY
25 TAXPAYERS.—

1 “(1) GENERAL RULE.—Notwithstanding any
2 other provision of this chapter, any amount paid or
3 accrued by a dual capacity taxpayer to a foreign
4 country or possession of the United States for any
5 period with respect to combined foreign oil and gas
6 income (as defined in section 907(b)(1)) shall not be
7 considered a tax to the extent such amount exceeds
8 the amount (determined in accordance with regula-
9 tions) which would have been required to be paid if
10 the taxpayer were not a dual capacity taxpayer.

11 “(2) DUAL CAPACITY TAXPAYER.—For pur-
12 poses of this subsection, the term ‘dual capacity tax-
13 payer’ means, with respect to any foreign country or
14 possession of the United States, a person who—

15 “(A) is subject to a levy of such country or
16 possession, and

17 “(B) receives (or will receive) directly or
18 indirectly a specific economic benefit (as deter-
19 mined in accordance with regulations) from
20 such country or possession.”.

21 (b) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to taxes paid or accrued in
24 taxable years beginning after December 31, 2020.

1 (2) CONTRARY TREATY OBLIGATIONS
2 UPHELD.—The amendments made by this section
3 shall not apply to the extent contrary to any treaty
4 obligation of the United States.

5 **SEC. 108. TREATMENT OF INTANGIBLES TRANSFERRED TO**
6 **PARTNERSHIPS.**

7 (a) REPEAL OF CERTAIN REGULATORY AUTHOR-
8 ITY.—Section 367(d) is amended by striking paragraph
9 (3).

10 (b) EXCEPTION TO RULES PROVIDING NONRECOGNI-
11 TION OF GAIN.—Section 721(d) is amended to read as fol-
12 lows:

13 “(d) CERTAIN TRANSFERS OF INTANGIBLE PROP-
14 ERTY TO PARTNERSHIPS.—

15 “(1) IN GENERAL.—Except as provided in regu-
16 lations prescribed by the Secretary, if a United
17 States person transfers any intangible property with-
18 in the meaning of section 367(d)(4) to a specified
19 partnership in an exchange described in this section,
20 subsection (a) shall not apply to the transfer of such
21 property and the provisions of section 367(d)(2)
22 shall apply to such transfer.

23 “(2) SPECIFIED PARTNERSHIP.—For purposes
24 of this subsection, the term ‘specified partnership’
25 means any partnership if any item of income or gain

1 attributable to intangible property is taken into ac-
2 count in determining any distributive share of such
3 partnership to a person that is not a United States
4 person.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to transfers after the date of the
7 enactment of this Act, in taxable years ending after such
8 date.

9 **TITLE II—ADDITIONAL MEAS-**
10 **URES TO COMBAT TAX EVA-**
11 **SION**

12 **SEC. 201. AUTHORIZING SPECIAL MEASURES AGAINST FOR-**
13 **EIGN JURISDICTIONS, FINANCIAL INSTITU-**
14 **TIONS, AND OTHERS THAT SIGNIFICANTLY**
15 **IMPEDE UNITED STATES TAX ENFORCEMENT.**

16 (a) IN GENERAL.—Section 5318A of title 31, United
17 States Code, is amended—

18 (1) by striking the section heading and insert-
19 ing the following: “**Special measures for juris-**
20 **dictions, financial institutions, or inter-**
21 **national transactions that are of primary**
22 **money laundering concern or signifi-**
23 **cantly impede United States tax enforce-**
24 **ment**”;

1 (2) in subsection (a), by striking the subsection
2 heading and inserting the following: “SPECIAL
3 MEASURES TO COUNTER MONEY LAUNDERING AND
4 EFFORTS TO SIGNIFICANTLY IMPEDE UNITED
5 STATES TAX ENFORCEMENT”;

6 (3) in subsection (c)—

7 (A) by striking the subsection heading and
8 inserting the following: “CONSULTATIONS AND
9 INFORMATION TO BE CONSIDERED IN FINDING
10 JURISDICTIONS, INSTITUTIONS, TYPES OF AC-
11 COUNTS, OR TRANSACTIONS TO BE OF PRI-
12 MARY MONEY LAUNDERING CONCERN OR TO
13 BE SIGNIFICANTLY IMPEDING UNITED STATES
14 TAX ENFORCEMENT”; and

15 (B) in paragraph (2), by adding at the end
16 the following:

17 “(C) OTHER CONSIDERATIONS.—The fact
18 that a jurisdiction or financial institution is co-
19 operating with the United States on imple-
20 menting the requirements specified in chapter 4
21 of the Internal Revenue Code of 1986 may be
22 favorably considered in evaluating whether such
23 jurisdiction or financial institution is signifi-
24 cantly impeding United States tax enforce-
25 ment.”;

1 (4) in subsection (a)(1), by inserting “or is sig-
2 nificantly impeding United States tax enforcement”
3 after “primary money laundering concern”;

4 (5) in subsection (a)(4)—

5 (A) in subparagraph (A)—

6 (i) by inserting “in matters involving
7 money laundering,” before “shall consult”;
8 and

9 (ii) by striking “and” at the end;

10 (B) by redesignating subparagraph (B) as
11 subparagraph (C); and

12 (C) by inserting after subparagraph (A)
13 the following:

14 “(B) in matters involving United States
15 tax enforcement, shall consult with the Commis-
16 sioner of Internal Revenue, the Secretary of
17 State, the Attorney General of the United
18 States, and in the sole discretion of the Sec-
19 retary, such other agencies and interested par-
20 ties as the Secretary may find to be appro-
21 priate; and”;

22 (6) in each of paragraphs (1)(A), (2), (3), and
23 (4) of subsection (b), by inserting “or to be signifi-
24 cantly impeding United States tax enforcement”

1 after “primary money laundering concern” each
2 place that term appears;

3 (7) in subsection (b), by striking paragraph (5)
4 and inserting the following:

5 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
6 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
7 PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING
8 CERTAIN PAYMENT CARDS.—If the Secretary finds a
9 jurisdiction outside of the United States, 1 or more
10 financial institutions operating outside of the United
11 States, or 1 or more classes of transactions within
12 or involving a jurisdiction outside of the United
13 States to be of primary money laundering concern or
14 to be significantly impeding United States tax en-
15 forcement, the Secretary, in consultation with the
16 Secretary of State, the Attorney General of the
17 United States, and the Chairman of the Board of
18 Governors of the Federal Reserve System, may pro-
19 hibit, or impose conditions upon—

20 “(A) the opening or maintaining in the
21 United States of a correspondent account or
22 payable-through account by any domestic finan-
23 cial institution or domestic financial agency for
24 or on behalf of a foreign banking institution, if
25 such correspondent account or payable-through

1 account involves any such jurisdiction or insti-
2 tution, or if any such transaction may be con-
3 ducted through such correspondent account or
4 payable-through account; or

5 “(B) the authorization, approval, or use in
6 the United States of a credit card, charge card,
7 debit card, or similar credit or debit financial
8 instrument by any domestic financial institu-
9 tion, domestic financial agency, or credit card
10 company or association for or on behalf of a
11 foreign banking institution, if such credit card,
12 charge card, debit card, or similar credit or
13 debit financial instrument involves any such ju-
14 risdiction or institution, or if any such trans-
15 action may be conducted through such credit
16 card, charge card, debit card, or similar credit
17 or debit financial instrument.”;

18 (8) in subsection (c)(1), by inserting “or is sig-
19 nificantly impeding United States tax enforcement”
20 after “primary money laundering concern”;

21 (9) in subsection (c)(2)(A)—

22 (A) in clause (ii), by striking “bank secrecy
23 or special regulatory advantages” and inserting
24 “bank, tax, corporate, trust, or financial secrecy
25 or regulatory advantages”;

1 (B) in clause (iii), by striking “supervisory
2 and counter-money” and inserting “supervisory,
3 international tax enforcement, and counter-
4 money”;

5 (C) in clause (v), by striking “banking or
6 secrecy” and inserting “banking, tax, or se-
7 crecy”; and

8 (D) in clause (vi), by inserting “, tax trea-
9 ty, or tax information exchange agreement”
10 after “treaty”;

11 (10) in subsection (c)(2)(B)—

12 (A) in clause (i), by inserting “or tax eva-
13 sion” after “money laundering”; and

14 (B) in clause (iii), by inserting “, tax eva-
15 sion,” after “money laundering”; and

16 (11) in subsection (d), by inserting “involving
17 money laundering, and shall notify, in writing, the
18 Committee on Finance of the Senate and the Com-
19 mittee on Ways and Means of the House of Rep-
20 resentatives of any such action involving United
21 States tax enforcement” after “such action”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 for chapter 53 of title 31, United States Code, is amended
24 by striking the item relating to section 5318A and insert-
25 ing the following:

“5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or significantly impede United States tax enforcement.”.

1 **SEC. 202. STRENGTHENING THE FOREIGN ACCOUNT TAX**
 2 **COMPLIANCE ACT (FATCA).**

3 (a) REPORTING ACTIVITIES WITH RESPECT TO PAS-
 4 SIVE FOREIGN INVESTMENT COMPANIES.—Section
 5 1298(f) is amended by inserting “, or who directly or indi-
 6 rectly forms, transfers assets to, is a beneficiary of, has
 7 a beneficial interest in, or receives money or property or
 8 the use thereof from,” after “shareholder of”.

9 (b) WITHHOLDABLE PAYMENTS TO FOREIGN FINAN-
 10 CIAL INSTITUTIONS.—Section 1471(d) is amended—

11 (1) in paragraph (2)(A), by inserting “or trans-
 12 action” after “any depository”, and

13 (2) in paragraph (5)(C), by striking “or any in-
 14 terest” and all that follows and inserting “deriva-
 15 tives, or any interest (including a futures or forward
 16 contract, swap, or option) in such securities, part-
 17 nership interests, commodities, or derivatives.”.

18 (c) WITHHOLDABLE PAYMENTS TO OTHER FOREIGN
 19 FINANCIAL INSTITUTIONS.—Section 1472 is amended—

20 (1) by inserting “as a result of any customer
 21 identification, anti-money laundering, anti-corrup-
 22 tion, or similar obligation to identify account hold-

1 ers,” after “reason to know,” in subsection (b)(2),
2 and

3 (2) by inserting “as posing a low risk of tax
4 evasion” after “this subsection” in subsection
5 (c)(1)(G).

6 (d) DEFINITIONS.—Clauses (i) and (ii) of section
7 1473(2)(A) are each amended by inserting “or as a bene-
8 ficial owner” after “indirectly”.

9 (e) SPECIAL RULES.—Section 1474(c) is amended—
10 (1) by inserting “, except that information pro-
11 vided under section 1471(c) or 1472(b) may be dis-
12 closed to any Federal law enforcement agency, upon
13 request or upon the initiation of the Secretary, to in-
14 vestigate or address a possible violation of United
15 States law” after “shall apply” in paragraph (1),
16 and

17 (2) by inserting “, or has had an agreement
18 terminated under such section,” after “section
19 1471(b)” in paragraph (2).

20 (f) INFORMATION WITH RESPECT TO FOREIGN FI-
21 NANCIAL ASSETS.—Section 6038D(a) is amended by in-
22 serting “ownership or beneficial ownership” after “holds
23 any”.

1 (g) ESTABLISHING PRESUMPTIONS FOR ENTITIES
 2 AND TRANSACTIONS INVOLVING NON-FATCA INSTITU-
 3 TIONS.—

4 (1) PRESUMPTIONS FOR TAX PURPOSES.—

5 (A) IN GENERAL.—Chapter 76 is amended
 6 by inserting after section 7491 the following
 7 new subchapter:

8 **“Subchapter F—Presumptions for Certain**
 9 **Legal Proceedings**

“Sec. 7492. Presumptions pertaining to entities and transactions involving non-FATCA institutions.

10 **“SEC. 7492. PRESUMPTIONS PERTAINING TO ENTITIES AND**
 11 **TRANSACTIONS INVOLVING NON-FATCA IN-**
 12 **STITUTIONS.**

13 “(a) CONTROL.—For purposes of any United States
 14 civil judicial or administrative proceeding to determine or
 15 collect tax, there shall be a rebuttable presumption that
 16 a United States person who, directly or indirectly, formed,
 17 transferred assets to, was a beneficiary of, had a beneficial
 18 interest in, or received money or property or the use there-
 19 of from an entity, including a trust, corporation, limited
 20 liability company, partnership, or foundation, that holds
 21 an account, or in any other manner has assets, in a non-
 22 FATCA institution, exercised control over such entity. The
 23 presumption of control created by this subsection shall not

1 be applied to prevent the Secretary from determining or
2 arguing the absence of control.

3 “(b) TRANSFERS OF INCOME.—For purposes of any
4 United States civil judicial or administrative proceeding
5 to determine or collect tax, there shall be a rebuttable pre-
6 sumption that any amount or thing of value received by
7 a United States person directly or indirectly from an ac-
8 count or from an entity that holds an account, or in any
9 other manner has assets, in a non-FATCA institution,
10 constitutes income of such person taxable in the year of
11 receipt; and any amount or thing of value paid or trans-
12 ferred by or on behalf of a United States person directly
13 or indirectly to an account, or entity that holds an ac-
14 count, or in any other manner has assets, in a non-
15 FATCA institution, represents previously unreported in-
16 come of such person taxable in the year of the transfer.

17 “(c) REBUTTING THE PRESUMPTIONS.—The pre-
18 sumptions established in this section may be rebutted only
19 by clear and convincing evidence, including detailed docu-
20 mentary, testimonial, and transactional evidence, estab-
21 lishing that—

22 “(1) in subsection (a), such taxpayer exercised
23 no control, directly or indirectly, over account or en-
24 tity at the time in question, and

1 “(2) in subsection (b), such amounts or things
2 of value did not represent income related to such
3 United States person.

4 Any court having jurisdiction of a civil proceeding in which
5 control of such an offshore account or offshore entity or
6 the income character of such receipts or amounts trans-
7 ferred is an issue shall prohibit the introduction by the
8 taxpayer of any foreign based document that is not au-
9 thenticated in open court by a person with knowledge of
10 such document, or any other evidence supplied by a person
11 outside the jurisdiction of a United States court, unless
12 such person appears before the court.”.

13 (B) The table of subchapters for chapter
14 76 is amended by inserting after the item relat-
15 ing to subchapter E the following new item:

“SUBCHAPTER F. PRESUMPTIONS FOR CERTAIN LEGAL PROCEEDINGS”.

16 (2) DEFINITION OF NON-FATCA INSTITUTION.—
17 Section 7701(a) is amended by adding at the end
18 the following new paragraph:

19 “(51) NON-FATCA INSTITUTION.—The term
20 ‘non-FATCA institution’ means any foreign financial
21 institution that does not meet the reporting require-
22 ments of section 1471(b).”.

23 (3) PRESUMPTIONS FOR SECURITIES LAW PUR-
24 POSES.—Section 21 of the Securities Exchange Act

1 of 1934 (15 U.S.C. 78u) is amended by adding at
2 the end the following new subsection:

3 “(j) PRESUMPTIONS PERTAINING TO CONTROL AND
4 BENEFICIAL OWNERSHIP.—

5 “(1) CONTROL.—For purposes of any civil judi-
6 cial or administrative proceeding under this title,
7 there shall be a rebuttable presumption that a
8 United States person who, directly or indirectly,
9 formed, transferred assets to, was a beneficiary of,
10 had a beneficial interest in, or received money or
11 property or the use thereof from an entity, including
12 a trust, corporation, limited liability company, part-
13 nership, or foundation, that holds an account, or in
14 any other manner has assets, in a non-FATCA insti-
15 tution (as defined in section 7701(a)(51) of the In-
16 ternal Revenue Code of 1986), exercised control over
17 such entity. The presumption of control created by
18 this paragraph shall not be applied to prevent the
19 Commission from determining or arguing the ab-
20 sence of control.

21 “(2) BENEFICIAL OWNERSHIP.—For purposes
22 of any civil judicial or administrative proceeding
23 under this title, there shall be a rebuttable presump-
24 tion that securities that are nominally owned by an
25 entity, including a trust, corporation, limited liability

1 company, partnership, or foundation, and that are
2 held in a non-FATCA institution (as so defined), are
3 beneficially owned by any United States person who
4 directly or indirectly exercised control over such enti-
5 ty. The presumption of beneficial ownership created
6 by this paragraph shall not be applied to prevent the
7 Commission from determining or arguing the ab-
8 sence of beneficial ownership.”.

9 (4) PRESUMPTION FOR REPORTING PURPOSES
10 RELATING TO FOREIGN FINANCIAL ACCOUNTS.—Sec-
11 tion 5314 of title 31, United States Code, is amend-
12 ed by adding at the end the following new sub-
13 section:

14 “(d) REBUTTABLE PRESUMPTION.—For purposes of
15 this section, there shall be a rebuttable presumption that
16 any account with a non-FATCA institution (as defined in
17 section 7701(a)(51) of the Internal Revenue Code of
18 1986) contains funds in an amount that is at least suffi-
19 cient to require a report prescribed by regulations under
20 this section.”.

21 (5) REGULATORY AUTHORITY.—Not later than
22 180 days after the date of enactment of this Act, the
23 Secretary of the Treasury and the Chairman of the
24 Securities and Exchange Commission shall each
25 adopt regulations or other guidance necessary to im-

1 plement the amendments made by this subsection.
 2 The Secretary and the Chairman may, by regulation
 3 or guidance, provide that the presumption of control
 4 shall not extend to particular classes of transactions,
 5 such as corporate reorganizations or transactions
 6 below a specified dollar threshold, if either deter-
 7 mines that applying such amendments to such trans-
 8 actions is not necessary to carry out the purposes of
 9 such amendments.

10 (h) **EFFECTIVE DATE.**—The amendments made by
 11 this section shall take effect on the date which is 180 days
 12 after the date of enactment of this Act, whether or not
 13 regulations are issued under subsection (g)(5).

14 **SEC. 203. REPORTING UNITED STATES BENEFICIAL OWN-**
 15 **ERS OF FOREIGN OWNED FINANCIAL AC-**
 16 **COUNTS.**

17 (a) **IN GENERAL.**—Subpart B of part III of sub-
 18 chapter A of chapter 61 is amended by inserting after sec-
 19 tion 6045B the following new sections:

20 **“SEC. 6045C. RETURNS REGARDING UNITED STATES BENE-**
 21 **FICIAL OWNERS OF FINANCIAL ACCOUNTS**
 22 **LOCATED IN THE UNITED STATES AND HELD**
 23 **IN THE NAME OF A FOREIGN ENTITY.**

24 “(a) **REQUIREMENT OF RETURN.**—If—

1 “(1) any withholding agent under sections 1441
2 and 1442 has the control, receipt, custody, disposal,
3 or payment of any amount constituting gross income
4 from sources within the United States of any foreign
5 entity, including a trust, corporation, limited liability
6 company, partnership, or foundation (other than an
7 entity with shares regularly traded on an established
8 securities market), and

9 “(2) such withholding agent determines for pur-
10 poses of title 14, 18, or 31 of the United States
11 Code that a United States person has any beneficial
12 interest in the foreign entity or in the account in
13 such entity’s name (hereafter in this section referred
14 to as ‘United States beneficial owner’),

15 then the withholding agent shall make a return according
16 to the forms or regulations prescribed by the Secretary.

17 “(b) REQUIRED INFORMATION.—For purposes of
18 subsection (a) the information required to be included on
19 the return shall include—

20 “(1) the name, address, and, if known, the tax-
21 payer identification number of the United States
22 beneficial owner,

23 “(2) the known facts pertaining to the relation-
24 ship of such United States beneficial owner to the
25 foreign entity and the account,

1 “(3) the gross amount of income from sources
2 within the United States (including gross proceeds
3 from brokerage transactions), and

4 “(4) such other information as the Secretary
5 may by forms or regulations provide.

6 “(c) STATEMENTS TO BE FURNISHED TO BENE-
7 FICIAL OWNERS WITH RESPECT TO WHOM INFORMATION
8 IS REQUIRED TO BE REPORTED.—A withholding agent
9 required to make a return under subsection (a) shall fur-
10 nish to each United States beneficial owner whose name
11 is required to be set forth in such return a statement
12 showing—

13 “(1) the name, address, and telephone number
14 of the information contact of the person required to
15 make such return, and

16 “(2) the information required to be shown on
17 such return with respect to such United States bene-
18 ficial owner.

19 The written statement required under the preceding sen-
20 tence shall be furnished to the United States beneficial
21 owner on or before January 31 of the year following the
22 calendar year for which the return under subsection (a)
23 was required to be made. In the event the person filing
24 such return does not have a current address for the United

1 States beneficial owner, such written statement may be
2 mailed to the address of the foreign entity.

3 **“SEC. 6045D. RETURNS BY FINANCIAL INSTITUTIONS RE-**
4 **GARDING ESTABLISHMENT OF ACCOUNTS IN**
5 **NON-FATCA INSTITUTIONS.**

6 “(a) REQUIREMENT OF RETURN.—Any financial in-
7 stitution directly or indirectly opening a bank, brokerage,
8 or other financial account for or on behalf of an offshore
9 entity, including a trust, corporation, limited liability com-
10 pany, partnership, or foundation (other than an entity
11 with shares regularly traded on an established securities
12 market), in a non-FATCA institution (as defined in sec-
13 tion 7701(a)(51)) at the direction of, on behalf of, or for
14 the benefit of a United States person shall make a return
15 according to the forms or regulations prescribed by the
16 Secretary.

17 “(b) REQUIRED INFORMATION.—For purposes of
18 subsection (a) the information required to be included on
19 the return shall include—

20 “(1) the name, address, and taxpayer identifica-
21 tion number of such United States person,

22 “(2) the name and address of the financial in-
23 stitution at which a financial account is opened, the
24 type of account, the account number, the name

1 under which the account was opened, and the
2 amount of the initial deposit,

3 “(3) if the account is held in the name of an
4 entity, the name and address of such entity, the type
5 of entity, and the name and address of any company
6 formation agent or other professional employed to
7 form or acquire the entity, and

8 “(4) such other information as the Secretary
9 may by forms or regulations provide.

10 “(c) STATEMENTS TO BE FURNISHED TO UNITED
11 STATES PERSONS WITH RESPECT TO WHOM INFORMA-
12 TION IS REQUIRED TO BE REPORTED.—A financial insti-
13 tution required to make a return under subsection (a)
14 shall furnish to each United States person whose name
15 is required to be set forth in such return a statement
16 showing—

17 “(1) the name, address, and telephone number
18 of the information contact of the person required to
19 make such return, and

20 “(2) the information required to be shown on
21 such return with respect to such United States per-
22 son.

23 The written statement required under the preceding sen-
24 tence shall be furnished to such United States person on
25 or before January 31 of the year following the calendar

1 year for which the return under subsection (a) was re-
 2 quired to be made.

3 “(d) EXEMPTION.—The Secretary may by regula-
 4 tions exempt any class of United States persons or any
 5 class of accounts or entities from the requirements of this
 6 section if the Secretary determines that applying this sec-
 7 tion to such persons, accounts, or entities is not necessary
 8 to carry out the purposes of this section.”.

9 (b) PENALTIES.—

10 (1) RETURNS.—Section 6724(d)(1)(B) is
 11 amended by striking “or” at the end of clause (xxv),
 12 by striking “and” at the end of clause (xxvi), and
 13 by adding after clause (xxvi) the following new
 14 clauses:

15 “(xxvii) section 6045C(a) (relating to
 16 returns regarding United States beneficial
 17 owners of financial accounts located in the
 18 United States and held in the name of a
 19 foreign entity), or

20 “(xxviii) section 6045D(a) (relating to
 21 returns by financial institutions regarding
 22 establishment of accounts at non-FATCA
 23 institutions), and”.

24 (2) PAYEE STATEMENTS.—Section 6724(d)(2)
 25 is amended by redesignating the second subpara-

1 graph (JJ) as (KK), by striking “or” at the end of
 2 subparagraph (JJ), by striking the period at the end
 3 of subparagraph (KK), and by inserting after sub-
 4 paragraph (KK) the following new subparagraphs:

5 “(LL) section 6045C(c) (relating to re-
 6 turns regarding United States beneficial owners
 7 of financial accounts located in the United
 8 States and held in the name of a foreign enti-
 9 ty), or

10 “(MM) section 6045D(c) (relating to re-
 11 turns by financial institutions regarding estab-
 12 lishment of accounts at non-FATCA institu-
 13 tions).”.

14 (c) CLERICAL AMENDMENT.—The table of sections
 15 for subpart B of part III of subchapter A of chapter 61
 16 is amended by inserting after the item relating to section
 17 6045B the following new items:

“Sec. 6045C. Returns regarding United States beneficial owners of financial
 accounts located in the United States and held in the name of
 a foreign entity.

“Sec. 6045D. Returns by financial institutions regarding establishment of ac-
 counts at non-FATCA institutions.”.

18 (d) ADDITIONAL PENALTIES.—

19 (1) ADDITIONAL PENALTIES ON BANKS.—Sec-
 20 tion 5239(b)(1) of the Revised Statutes of the
 21 United States (12 U.S.C. 93(b)(1)) is amended by
 22 inserting “or any of the provisions of section 6045D

1 of the Internal Revenue Code of 1986,” after “any
2 regulation issued pursuant to,”.

3 (2) ADDITIONAL PENALTIES ON SECURITIES
4 FIRMS.—Section 21(d)(3)(A) of the Securities Ex-
5 change Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is
6 amended by inserting “any of the provisions of sec-
7 tion 6045D of the Internal Revenue Code of 1986,”
8 after “the rules or regulations thereunder,”.

9 (e) REGULATORY AUTHORITY AND EFFECTIVE
10 DATE.—

11 (1) REGULATORY AUTHORITY.—Not later than
12 180 days after the date of the enactment of this Act,
13 the Secretary of the Treasury shall adopt regula-
14 tions, forms, or other guidance necessary to imple-
15 ment this section.

16 (2) EFFECTIVE DATE.—Section 6045C of the
17 Internal Revenue Code of 1986 (as added by this
18 section) and the amendment made by subsection
19 (d)(1) shall take effect with respect to amounts paid
20 into foreign owned accounts located in the United
21 States after December 31 of the year of the date of
22 the enactment of this Act. Section 6045D of such
23 Code (as so added) and the amendment made by
24 subsection (d)(2) shall take effect with respect to ac-
25 counts opened after December 31 of the year of the

1 date of the enactment of this Act. Section 6045D of
 2 such Code (as so added) and the amendment made
 3 by subsection (d)(2) shall take effect with respect to
 4 accounts opened after December 31 of the year of
 5 the date of the enactment of this Act, whether or
 6 not regulations are issued under Section 6045D.

7 **SEC. 204. PENALTY FOR FAILING TO DISCLOSE OFFSHORE**
 8 **HOLDINGS.**

9 (a) SECURITIES EXCHANGE ACT OF 1934.—Section
 10 21(d)(3)(B) of the Securities Exchange Act of 1934 (15
 11 U.S.C. 78u(d)(3)(B)) is amended by adding at the end
 12 the following:

13 “(iv) FOURTH TIER.—Notwith-
 14 standing clauses (i), (ii), and (iii), for each
 15 such violation, the amount of penalty shall
 16 not exceed \$1,000,000 for any natural per-
 17 son or \$10,000,000 for any other person,
 18 if—

19 “(I) such person directly or indi-
 20 rectly controlled any foreign entity, in-
 21 cluding any trust, corporation, limited
 22 liability company, partnership, or
 23 foundation through which an issuer
 24 purchased, sold, or held equity or debt
 25 instruments;

1 “(II) such person knowingly or
2 recklessly failed to disclose any such
3 holding, purchase, or sale by the
4 issuer; and

5 “(III) the holding, purchase, or
6 sale would have been otherwise sub-
7 ject to disclosure by the issuer or such
8 person under this title.”.

9 (b) SECURITIES ACT OF 1933.—Section 20(d)(2) of
10 the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is
11 amended by adding at the end the following:

12 “(D) FOURTH TIER.—Notwithstanding
13 subparagraphs (A), (B), and (C), for each such
14 violation, the amount of penalty shall not ex-
15 ceed \$1,000,000 for any natural person or
16 \$10,000,000 for any other person, if—

17 “(i) such person directly or indirectly
18 controlled any foreign entity, including any
19 trust, corporation, limited liability com-
20 pany, partnership, or foundation through
21 which an issuer purchased, sold, or held
22 equity or debt instruments;

23 “(ii) such person knowingly or reck-
24 lessly failed to disclose any such holding,
25 purchase, or sale by the issuer; and

1 “(iii) the holding, purchase, or sale
2 would have been otherwise subject to dis-
3 closure by the issuer or such person under
4 this title.”.

5 (c) INVESTMENT ADVISERS ACT OF 1940.—Section
6 203(i)(2) of the Investment Advisers Act of 1940 (15
7 U.S.C. 80b–3(i)(2)) is amended by adding at the end the
8 following:

9 “(D) FOURTH TIER.—Notwithstanding
10 subparagraphs (A), (B), and (C), for each such
11 violation, the amount of penalty shall not ex-
12 ceed \$1,000,000 for any natural person or
13 \$10,000,000 for any other person, if—

14 “(i) such person directly or indirectly
15 controlled any foreign entity, including any
16 trust, corporation, limited liability com-
17 pany, partnership, or foundation through
18 which an issuer purchased, sold, or held
19 equity or debt instruments;

20 “(ii) such person knowingly or reck-
21 lessly failed to disclose any such holding,
22 purchase, or sale by the issuer; and

23 “(iii) the holding, purchase, or sale
24 would have been otherwise subject to dis-

1 closure by the issuer or such person under
2 this title.”.

3 **SEC. 205. DEADLINE FOR ANTI-MONEY LAUNDERING RULE**
4 **FOR INVESTMENT ADVISERS.**

5 (a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR
6 INVESTMENT ADVISERS.—Section 5312(a)(2) of title 31,
7 United States Code, is amended—

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

10 (2) by redesignating subparagraph (Z) as sub-
11 paragraph (BB); and

12 (3) by inserting after subparagraph (Y) the fol-
13 lowing:

14 “(Z) an investment adviser (as defined in
15 section 202(a) of the Investment Advisers Act
16 of 1940);”.

17 (b) RULES REQUIRED.—The Secretary of the Treas-
18 ury shall—

19 (1) in consultation with the Securities and Ex-
20 change Commission and the Commodity Futures
21 Trading Commission, not later than 180 days after
22 the date of enactment of this Act, publish a pro-
23 posed rule in the Federal Register to carry out the
24 amendments made by this section; and

1 (2) not later than 270 days after the date of
2 enactment of this Act, publish a final rule in the
3 Federal Register on the matter described in para-
4 graph (1).

5 (c) CONTENTS.—The final rule published under this
6 section shall require, at a minimum, each investment ad-
7 viser (as defined in section 202(a)(11) of the Investment
8 Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11))) reg-
9 istered with the Securities and Exchange Commission pur-
10 suant to section 203 of that Act (15 U.S.C. 80b–3)—

11 (1) to submit suspicious activity reports and es-
12 tablish an anti-money laundering program under
13 subsections (g) and (h), respectively, of section 5318
14 of title 31, United States Code; and

15 (2) to comply with—

16 (A) the customer identification program
17 requirements under section 5318(l) of title 31,
18 United States Code; and

19 (B) the due diligence requirements under
20 section 5318(i) of title 31, United States Code.

21 **SEC. 206. ANTI-MONEY LAUNDERING REQUIREMENTS FOR**
22 **FORMATION AGENTS.**

23 (a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR
24 FORMATION AGENTS.—Section 5312(a)(2) of title 31,
25 United States Code, as amended by section 205 of this

1 Act, is amended by inserting after subparagraph (Z) the
2 following:

3 “(AA) any person engaged in the business
4 of forming new corporations, limited liability
5 companies, partnerships, trusts, or other legal
6 entities; or”.

7 (b) DEADLINE FOR ANTI-MONEY LAUNDERING
8 RULE FOR FORMATION AGENTS.—

9 (1) PROPOSED RULE.—The Secretary of the
10 Treasury, in consultation with the Attorney General
11 of the United States, the Secretary of Homeland Se-
12 curity, and the Commissioner of Internal Revenue,
13 shall—

14 (A) not later than 120 days after the date
15 of enactment of this Act, publish a proposed
16 rule in the Federal Register requiring persons
17 described in section 5312(a)(2)(AA) of title 31,
18 United States Code, as added by this section, to
19 establish anti-money laundering programs
20 under section 5318(h) of that title; and

21 (B) not later than 270 days after the date
22 of enactment of this Act, publish a final rule in
23 the Federal Register on the matter described in
24 subparagraph (A).

1 (2) EXCLUSIONS.—The rule promulgated under
2 this subsection shall exclude from the category of
3 persons engaged in the business of forming new cor-
4 porations or other entities—

5 (A) any government agency; and

6 (B) any attorney or law firm that uses a
7 paid formation agent operating within the
8 United States to form such corporations or
9 other entities.

10 **SEC. 207. STRENGTHENING JOHN DOE SUMMONS PRO-**
11 **CEEDINGS.**

12 (a) IN GENERAL.—Subsection (f) of section 7609 is
13 amended to read as follows:

14 “(f) ADDITIONAL REQUIREMENT IN THE CASE OF A
15 JOHN DOE SUMMONS.—

16 “(1) GENERAL RULE.—Any summons described
17 in subsection (c)(1) which does not identify the per-
18 son with respect to whose liability the summons is
19 issued may be served only after a court proceeding
20 in which the Secretary establishes that—

21 “(A) the summons relates to the investiga-
22 tion of a particular person or ascertainable
23 group or class of persons,

24 “(B) there is a reasonable basis for believ-
25 ing that such person or group or class of per-

1 sons may fail or may have failed to comply with
2 any provision of any internal revenue law, and
3 “(C) the information sought to be obtained
4 from the examination of the records or testi-
5 mony (and the identity of the person or persons
6 with respect to whose liability the summons is
7 issued) is not readily available from other
8 sources.

9 “(2) EXCEPTION.—Paragraph (1) shall not
10 apply to any summons which specifies that it is lim-
11 ited to information regarding a United States cor-
12 respondent account (as defined in section
13 5318A(e)(1)(B) of title 31, United States Code) or
14 a United States payable-through account (as defined
15 in section 5318A(e)(1)(C) of such title) of a finan-
16 cial institution that is held at a non-FATCA institu-
17 tion (as defined in section 7701(a)(51)).

18 “(3) PRESUMPTION IN CASES INVOLVING NON-
19 FATCA INSTITUTIONS.—For purposes of this section,
20 in any case in which the particular person or ascer-
21 tainable group or class of persons have financial ac-
22 counts in or transactions related to a non-FATCA
23 institution (as defined in section 7701(a)(51)), there
24 shall be a presumption that there is a reasonable
25 basis for believing that such person or group or class

1 of persons may fail or may have failed to comply
2 with provisions of internal revenue law.

3 “(4) PROJECT JOHN DOE SUMMONSES.—

4 “(A) IN GENERAL.—Notwithstanding the
5 requirements of paragraph (1), the Secretary
6 may issue a summons described in paragraph
7 (1) if the summons—

8 “(i) relates to a project which is ap-
9 proved under subparagraph (B),

10 “(ii) is issued to a person who is a
11 member of the group or class established
12 under subparagraph (B)(i), and

13 “(iii) is issued within 3 years of the
14 date on which such project was approved
15 under subparagraph (B).

16 “(B) APPROVAL OF PROJECTS.—A project
17 may only be approved under this subparagraph
18 after a court proceeding in which the Secretary
19 establishes that—

20 “(i) any summons issued with respect
21 to the project will be issued to a member
22 of an ascertainable group or class of per-
23 sons, and

1 “(ii) any summons issued with respect
2 to such project will meet the requirements
3 of paragraph (1).

4 “(C) EXTENSION.—Upon application of
5 the Secretary, the court may extend the time
6 for issuing such summonses under subpara-
7 graph (A)(i) for additional 3-year periods, but
8 only if the court continues to exercise oversight
9 of such project under subparagraph (D).

10 “(D) ONGOING COURT OVERSIGHT.—Dur-
11 ing any period in which the Secretary is author-
12 ized to issue summonses in relation to a project
13 approved under subparagraph (B) (including
14 during any extension under subparagraph (C)),
15 the Secretary shall report annually to the court
16 on the use of such authority, provide copies of
17 all summonses with such report, and comply
18 with the court’s direction with respect to the
19 issuance of any John Doe summons under such
20 project.”.

21 (b) JURISDICTION OF COURT.—

22 (1) IN GENERAL.—Paragraph (1) of section
23 7609(h) is amended by inserting after the first sen-
24 tence the following new sentence: “Any United
25 States district court in which a member of the group

1 or class to which a summons may be issued resides
 2 or is found shall have jurisdiction to hear and deter-
 3 mine the approval of a project under subsection
 4 (f)(4)(B).”.

5 (2) CONFORMING AMENDMENT.—The first sen-
 6 tence of section 7609(h)(1) is amended by striking
 7 “(f)” and inserting “(f)(1)”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to summonses issued after the date
 10 of the enactment of this Act.

11 **SEC. 208. IMPROVING ENFORCEMENT OF FOREIGN FINAN-**
 12 **CIAL ACCOUNT REPORTING.**

13 (a) CLARIFYING THE CONNECTION OF FOREIGN FI-
 14 NANCIAL ACCOUNT REPORTING TO TAX ADMINISTRA-
 15 TION.—Paragraph (4) of section 6103(b) is amended by
 16 adding at the end the following new sentence:

17 “For purposes of subparagraph (A)(i), section 5314
 18 of title 31, United States Code, and sections 5321
 19 and 5322 of such title (as such sections pertain to
 20 such section 5314), shall be considered related stat-
 21 utes.”.

22 (b) SIMPLIFYING THE CALCULATION OF FOREIGN
 23 FINANCIAL ACCOUNT REPORTING PENALTIES.—Section
 24 5321(a)(5)(D)(ii) of title 31, United States Code, is
 25 amended by striking “the balance in the account at the

1 time of the violation” and inserting “the highest balance
2 in the account during the reporting period to which the
3 violation relates”.

4 (c) CLARIFYING THE USE OF SUSPICIOUS ACTIVITY
5 REPORTS UNDER THE BANK SECRECY ACT FOR CIVIL
6 TAX LAW ENFORCEMENT.—Section 5319 of title 31,
7 United States Code, is amended by inserting “the civil and
8 criminal enforcement divisions of the Internal Revenue
9 Service,” after “including”.

○