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S. 4075

To prevent money laundering, the financing of terrorism, or other forms of illicit finance through United States real estate and vehicle transactions, including by Russian oligarchs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2022

Mr. WHITEHOUSE (for himself, Mr. CASSIDY, Ms. WARREN, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prevent money laundering, the financing of terrorism, or other forms of illicit finance through United States real estate and vehicle transactions, including by Russian oligarchs, 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.**

4 This Act may be cited as the “Kleptocrat Liability
5 for Excessive Property Transactions and Ownership Act”
6 or the “KLEPTO Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Federal
3 Aviation Administration.

4 (2) BANK SECRECY ACT.—The term “Bank Se-
5 crecy Act” means—

6 (A) section 21 of the Federal Deposit In-
7 surance Act (12 U.S.C. 1829b);

8 (B) chapter 2 of title I of Public Law 91–
9 508 (12 U.S.C. 1951 et seq.); and

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

12 (3) BENEFICIAL OWNER.—The term “beneficial
13 owner” has the meaning given the term in section
14 5336(a) of title 31, United States Code.

15 (4) COVERED ENTITY.—The term “covered en-
16 tity” means a non-natural person, association, or ar-
17 rangement, including any trust, partnership, founda-
18 tion, corporation, limited liability company, or other
19 public or private entity.

20 (5) DIRECTOR.—The term “Director” means
21 the Director of FinCEN.

22 (6) FINCEN.—The term “FinCEN” means the
23 Financial Crimes Enforcement Network of the De-
24 partment of the Treasury.

1 (7) FOREIGN PERSON.—The term “foreign per-
2 son” means an individual who is not—

3 (A) a United States person; or

4 (B) an alien lawfully admitted for perma-
5 nent residence into the United States.

6 (8) REAL ESTATE PROFESSIONAL.—The term
7 “real estate professional”—

8 (A) means a person described in section
9 5312(a)(2)(U) of title 31, United States Code;
10 and

11 (B) may include a loan broker, lender, title
12 insurance company, title insurance agent, es-
13 crow agent, developer, investment company, in-
14 vestment adviser, real estate investment trust,
15 real estate agent, attorney, law firm, or other
16 financial, real estate, or legal professional.

17 (9) SECRETARY.—The term “Secretary” means
18 the Secretary of the Treasury.

19 (10) STATE.—The term “State” means any
20 State of the United States, the District of Columbia,
21 the Commonwealth of Puerto Rico, the Common-
22 wealth of the Northern Mariana Islands, American
23 Samoa, Guam, the United States Virgin Islands, and
24 any other commonwealth, territory, or possession of
25 the United States.

1 (11) UNITED STATES PERSON.—The term
2 “United States person” means a natural person who
3 is a citizen of the United States or who owes perma-
4 nent allegiance to the United States.

5 **SEC. 3. ANTI-MONEY LAUNDERING SAFEGUARDS FOR REAL**
6 **ESTATE TRANSACTIONS.**

7 (a) RULEMAKING.—Not later than 1 year after the
8 date of enactment of this Act, in conjunction with the au-
9 thority under section 5318(a)(2) of title 31, United States
10 Code, the Director shall issue a final rule to guard against
11 money laundering, the financing of terrorism, or other
12 forms of illicit finance through commercial and residential
13 real estate transactions under the Bank Secrecy Act, in-
14 cluding by—

15 (1) requiring real estate professionals to collect
16 and report to the Director beneficial ownership in-
17 formation for each commercial and residential real
18 estate transaction involving real estate located in a
19 State and involving a buyer or seller that is a cov-
20 ered entity, regardless of the transfer price;

21 (2) in collecting and reporting the information
22 under paragraph (1), defining commercial or resi-
23 dential real estate transactions to include direct and
24 indirect transfers of real estate, including through
25 the direct or indirect transfer of the ownership or

1 control of a covered entity that directly or indirectly
2 owns or controls the real estate that is the subject
3 of the transaction;

4 (3) establishing a system to determine which
5 real estate professionals must collect and report the
6 information under paragraph (1);

7 (4) requiring the Director to validate the infor-
8 mation reported under paragraph (1);

9 (5) requiring real estate professionals reporting
10 information under paragraph (1) to take reasonable
11 measures to verify the accuracy of the information
12 reported under this subsection; and

13 (6) using the definition of “beneficial owner” in
14 section 5336(a) of title 31, United States Code.

15 (b) REPORT.—Not later than 360 days after the date
16 of enactment of this Act, the Secretary shall submit to
17 the appropriate congressional committees a report on how
18 digital ledger technology can be implemented to create a
19 tamper-proof permanent record of direct and indirect
20 transfers of real estate, including through direct or indi-
21 rect transfer of ownership or control of a covered entity
22 that directly or indirectly owns or controls the real estate
23 that is subject to the transaction.

24 (c) ANTI-MONEY LAUNDERING REQUIREMENTS FOR
25 REAL ESTATE PROFESSIONALS.—In the rule required

1 under subsection (a), the Director shall require the 1 or
 2 more real estate professionals determined under sub-
 3 section (a)(3) to—

4 (1) report suspicious transactions under section
 5 5318(g)(1) of title 31, United States Code;

6 (2) establish anti-money laundering programs
 7 under section 5318(h) of title 31, United States
 8 Code;

9 (3) establish customer due diligence policies,
 10 procedures, and controls under section 5318(i) of
 11 title 31, United States Code; and

12 (4) establish written procedures reasonably de-
 13 signed to identify and verify under section 5318(l) of
 14 title 31, United States Code, the identity of cus-
 15 tomers, including the beneficial owners of any cov-
 16 ered entity, involved in commercial and residential
 17 real estate transactions.

18 **SEC. 4. REAL ESTATE PILOT PROGRAM.**

19 (a) IN GENERAL.—Not later than 2 years after the
 20 date of enactment of this Act, the Secretary shall pilot
 21 a comprehensive e-governance framework for the trans-
 22 parency of commercial and residential real estate sales and
 23 purchases in the United States, which shall—

1 (1) designate a pilot locale for the implementa-
2 tion of the pilot program after obtaining the consent
3 of the relevant State; and

4 (2) design a cloud-based distributed ledger for
5 real estate in the pilot locale, which shall—

6 (A) consist of a cloud-based network for
7 digital governance that—

8 (i) provides real-time integrated infor-
9 mation to users, which may include indi-
10 viduals, entities, and governments; and

11 (ii) allows users to conduct economic
12 and other activity through an internet
13 website or mobile application;

14 (B) be designed to minimize corruption
15 and maximize transparency for persons engaged
16 in real estate transactions, investment, assist-
17 ance, and any other activities under section 3;
18 and

19 (C) include the integration with other sys-
20 tems required under subsection (b) and the ca-
21 pabilities described in subsection (c).

22 (b) INTEGRATION WITH OTHER SYSTEMS.—The Sec-
23 retary shall design the framework established under sub-
24 section (a) to be capable of integration with—

1 (1) the Bank Secretary Act databases main-
2 tained by FinCEN, including—

3 (A) the beneficial ownership information
4 collected by FinCEN under Geographic Tar-
5 geting Orders;

6 (B) the directory of beneficial ownership
7 information collected under section 5336 of title
8 31, United States Code; and

9 (C) any other Bank Secrecy Act database
10 as determined by the Director;

11 (2) the sanctions lists maintained by the De-
12 partment of the Treasury's Office of Foreign Assets
13 Control;

14 (3) the information exchanging systems of the
15 Egmont Group of Financial Intelligence Units;

16 (4) the digital business registry databases of
17 other countries;

18 (5) the real estate registries of States and polit-
19 ical subdivisions of States;

20 (6) the beneficial ownership information col-
21 lected under section 3(a); and

22 (7) any other system as determined by the Sec-
23 retary.

24 (c) OTHER REQUIREMENTS.—

1 (1) OPEN SOURCE.—The Secretary shall ensure
 2 that the code used for the framework established
 3 under subsection (a) is open source and capable of
 4 being audited.

5 (2) MULTI-LINGUAL FUNCTIONALITY.—The
 6 Secretary shall ensure that the framework estab-
 7 lished under subsection (a) is functional in—

8 (A) English, Spanish, French, and Por-
 9 tuguese; and

10 (B) any other language as determined by
 11 the Secretary.

12 (3) STANDARDS.—The Secretary shall include
 13 in the framework established under subsection (a)
 14 standards for entities seeking to create their own e-
 15 governance systems.

16 **SEC. 5. CERTIFICATION OF AIRCRAFT REGISTRATION.**

17 (a) IN GENERAL.—Before approving a certificate of
 18 registration issued under section 44103 of title 49, United
 19 States Code, with a covered entity, the Administrator of
 20 the Federal Aviation Administration shall require the cov-
 21 ered entity to—

22 (1) identify each beneficial owner of the covered
 23 entity by—

24 (A) name;

1 (B) current residential or business street
2 address;

3 (C) a unique identifying number from a
4 nonexpired passport issued by the United
5 States or a nonexpired drivers license issued by
6 a State or if neither is available, a legible and
7 credible copy of the pages of a nonexpired pass-
8 port issued by the government of a foreign
9 country bearing a photograph, date of birth,
10 and unique identifying information for the per-
11 son;

12 (D) nationality; and

13 (E) the make, model, and serial number of
14 the aircraft to be registered;

15 (2) in the case of a covered entity that is owned
16 or controlled by more than 1 entity—

17 (A) identify how each entity relates to
18 every other entity, including—

19 (i) the extent to which each entity
20 holds an ownership interest in or exercises
21 control over another entity; and

22 (ii) the relationship of each such enti-
23 ty with the beneficial owners who are nat-
24 ural persons; and

1 (B) identify each trust grantor, trustee,
2 trust protector, and beneficiary of the covered
3 entity that is a foreign person;

4 (3) in the case of a trust or association, identify
5 the chain of control within the trust or association,
6 including with respect to the beneficial owners, any
7 trust grantor, trustee, trust protector, and bene-
8 ficiary, and any association director, officer, or man-
9 ager; and

10 (4) disclose to the Administrator any beneficial
11 owner of the covered entity that is a foreign person.

12 (b) TIMING.—

13 (1) IN GENERAL.—The Administrator shall re-
14 quire a covered entity to provide the information de-
15 scribed in subsection (a) when submitting an appli-
16 cation for aircraft certification.

17 (2) EXISTING REGISTRANTS.—For a covered
18 entity that submitted an application for aircraft cer-
19 tification prior to enactment of this Act, the Admin-
20 istrator shall require the covered entity to provide
21 the information described in subsection (a) in a new
22 submission to the Administrator not later than 180
23 days after the date of enactment of this Act.

24 (3) UPDATES.—The Administrator shall require
25 a covered entity to update a submission of the infor-

1 mation described in subsection (a) not later than 60
 2 days after the date of any change in—

3 (A) the list of beneficial owners of the cov-
 4 ered entity; or

5 (B) the information required to be pro-
 6 vided relating to each such beneficial owner.

7 **SEC. 6. ANTI-MONEY LAUNDERING REQUIREMENTS FOR**
 8 **BUSINESSES ENGAGED IN VEHICLE SALES.**

9 Not later than 1 year after the date of enactment
 10 of this Act, in conjunction with the authority under section
 11 5318(a)(2) of title 31, United States Code, the Secretary
 12 shall issue a final rule that requires all businesses de-
 13 scribed in section 5312(a)(2)(T) of title 31, United States
 14 Code, to comply with the due diligence and reporting re-
 15 quirements applicable to financial institutions under sub-
 16 chapter II of chapter 53 of title 31, United States Code,
 17 including—

18 (1) reporting suspicious transactions under sec-
 19 tion 5318(g)(1) of title 31, United States Code;

20 (2) establishing anti-money laundering pro-
 21 grams under section 5318(h) of title 31, United
 22 States Code;

23 (3) establishing customer due diligence policies,
 24 procedures, and controls under section 5318(i) of
 25 title 31, United States Code; and

1 (4) establishing written procedures reasonably
2 designed to identify and verify under section 5318(l)
3 of title 31, United States Code, the identity of cus-
4 tomers, including the beneficial owners of any cov-
5 ered entity, involved in a vehicle sale.

6 **SEC. 7. BENEFICIAL OWNERSHIP DIRECTORY.**

7 If an entity formed under the law of a foreign country
8 takes ownership or control of real estate located within
9 the United States through a real estate transaction carried
10 out by a real estate professional subject to this Act, and
11 if that entity would have qualified as a reporting company
12 under section 5336(a)(11)(A)(ii) of title 31, United States
13 Code, except that a State exempted the entity from a State
14 registration requirement because the only business of the
15 entity within the State is to purchase or hold real estate
16 within a State, that entity shall nevertheless be deemed
17 a reporting company under section 5336(a)(11)(A)(ii) of
18 such title and shall file the reports required under section
19 5336(b) of such title.

20 **SEC. 8. APPLICABILITY.**

21 This Act and the rules issued under this Act shall
22 apply to beneficial owners of covered entities regardless
23 of whether the covered entity is a reporting company, as
24 defined in section 5336(a) of title 31, United States Code.

1 **SEC. 9. PROGRAM COST ESTIMATION.**

2 Not later than 120 days after the date of enactment
3 of this Act, the Secretary and the Administrator shall each
4 submit to Congress a cost estimate for implementing this
5 Act.

6 **SEC. 10. EFFECTIVE DATE.**

7 The effective date of each rule issued under this Act
8 shall be 1 year after the date on which the final rule is
9 issued.

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