

116TH CONGRESS
1ST SESSION

H. R. 2514

AN ACT

To make reforms to the Federal Bank Secrecy Act and
anti-money laundering laws, 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,*

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

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

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

Sec. 1. Short title; table of contents.
 Sec. 2. Bank Secrecy Act definition.
 Sec. 3. Determination of Budgetary Effects.

TITLE I—STRENGTHENING TREASURY

Sec. 101. Improving the definition and purpose of the Bank Secrecy Act.
 Sec. 102. Special hiring authority.
 Sec. 103. Civil Liberties and Privacy Officer.
 Sec. 104. Civil Liberties and Privacy Council.
 Sec. 105. International coordination.
 Sec. 106. Treasury Attachés Program.
 Sec. 107. Increasing technical assistance for international cooperation.
 Sec. 108. FinCEN Domestic Liaisons.
 Sec. 109. FinCEN Exchange.
 Sec. 110. Study and strategy on trade-based money laundering.
 Sec. 111. Study and strategy on de-risking.
 Sec. 112. AML examination authority delegation study.
 Sec. 113. Study and strategy on Chinese money laundering.

TITLE II—IMPROVING AML/CFT OVERSIGHT

Sec. 201. Pilot program on sharing of suspicious activity reports within a financial group.
 Sec. 202. Sharing of compliance resources.
 Sec. 203. GAO Study on feedback loops.
 Sec. 204. FinCEN study on BSA value.
 Sec. 205. Sharing of threat pattern and trend information.
 Sec. 206. Modernization and upgrading whistleblower protections.
 Sec. 207. Certain violators barred from serving on boards of United States financial institutions.
 Sec. 208. Additional damages for repeat Bank Secrecy Act violators.
 Sec. 209. Justice annual report on deferred and non-prosecution agreements.
 Sec. 210. Return of profits and bonuses.
 Sec. 211. Application of Bank Secrecy Act to dealers in antiquities.
 Sec. 212. Geographic targeting order.
 Sec. 213. Study and revisions to currency transaction reports and suspicious activity reports.
 Sec. 214. Streamlining requirements for currency transaction reports and suspicious activity reports.

TITLE III—MODERNIZING THE AML SYSTEM

Sec. 301. Encouraging innovation in BSA compliance.
 Sec. 302. Innovation Labs.
 Sec. 303. Innovation Council.
 Sec. 304. Testing methods rulemaking.
 Sec. 305. FinCEN study on use of emerging technologies.
 Sec. 306. Discretionary surplus funds.

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

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

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

10 “(C) this subchapter.”.

11 **SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.**

12 The budgetary effects of this Act, for the purpose of
 13 complying with the Statutory Pay-As-You-Go Act of 2010,
 14 shall be determined by reference to the latest statement
 15 titled “Budgetary Effects of PAYGO Legislation” for this
 16 Act, submitted for printing in the Congressional Record
 17 by the Chairman of the House Budget Committee, pro-
 18 vided that such statement has been submitted prior to the
 19 vote on passage.

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 and” before “in criminal”.

SEC. 102. SPECIAL HIRING AUTHORITY.

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

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

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

“(d) SPECIAL HIRING AUTHORITY.—

“(1) IN GENERAL.—The Secretary of the Treasury may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, candidates directly to positions in the competitive service (as defined in section 2102 of that title) in FinCEN.

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

6 (b) REPORT.—Not later than 360 days after the date
7 of enactment of this Act, and every year thereafter for
8 7 years, the Director of the Financial Crimes Enforcement
9 Network shall submit a report to the Committee on Finan-
10 cial Services of the House of Representatives and the
11 Committee on Banking, Housing, and Urban Affairs of
12 the Senate that includes—

13 (1) the number of new employees hired since
14 the preceding report through the authorities de-
15 scribed under section 310(d) of title 31, United
16 States Code, along with position titles and associ-
17 ated pay grades for such hires; and

18 (2) a copy of any Federal Government survey of
19 staff perspectives at the Office of Terrorism and Fi-
20 nancial Intelligence, including findings regarding the
21 Office and the Financial Crimes Enforcement Net-
22 work from the most recently administered Federal
23 Employee Viewpoint Survey.

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

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

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

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

11 (3) within the Internal Revenue Service Small
12 Business and Self-Employed Tax Center, by the Sec-
13 retary of the Treasury.

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

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

20 (2) be consulted on information-sharing pro-
21 grams, including those that provide access to person-
22 ally identifiable information;

23 (3) ensure coordination and clarity between
24 anti-money laundering, civil liberties, and privacy
25 regulations;

1 (4) contribute to the evaluation and regulation
2 of new technologies that may strengthen data pri-
3 vacy and the protection of personally identifiable in-
4 formation collected by each Federal functional regu-
5 lator; and

6 (5) develop metrics of program success.

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

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

11 (2) FEDERAL FUNCTIONAL REGULATOR.—The
12 term “Federal functional regulator” means the
13 Board of Governors of the Federal Reserve System,
14 the Comptroller of the Currency, the Federal De-
15 posit Insurance Corporation, the National Credit
16 Union Administration, the Securities and Exchange
17 Commission, and the Commodity Futures Trading
18 Commission.

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

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

1 (b) CHAIR.—The Director of the Financial Crimes
2 Enforcement Network shall serve as the Chair of the
3 Council.

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

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

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

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

13 (3) shall include participation by public and pri-
14 vate entities, law enforcement agencies, and a rep-
15 resentative of State bank supervisors (as defined
16 under section 3 of the Federal Deposit Insurance
17 Act (12 U.S.C. 1813)).

18 (e) REPORT.—The Chair of the Council shall issue
19 an annual report to the Congress on the program and pol-
20 icy activities, including the success of programs as meas-
21 ured by metrics of program success developed pursuant
22 to section 103(b)(5), of the Council during the previous
23 year and any legislative recommendations that the Council
24 may have.

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

4 **SEC. 105. INTERNATIONAL COORDINATION.**

5 (a) IN GENERAL.—The Secretary of the Treasury
6 shall work with the Secretary’s foreign counterparts, in-
7 cluding through the Financial Action Task Force, the
8 International Monetary Fund, the World Bank, the
9 Egmont Group of Financial Intelligence Units, the
10 Organisation for Economic Co-operation and Develop-
11 ment, and the United Nations, to promote stronger anti-
12 money laundering frameworks and enforcement of anti-
13 money laundering laws.

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

18 (c) INTERNATIONAL MONETARY FUND.—

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

1 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
2 **NATIONAL MONETARY FUND TO PREVENT**
3 **MONEY LAUNDERING AND FINANCING OF**
4 **TERRORISM.**

5 “The Secretary of the Treasury shall instruct the
6 United States Executive Director at the International
7 Monetary Fund to support the increased use of the admin-
8 istrative budget of the Fund for technical assistance that
9 strengthens the capacity of Fund members to prevent
10 money laundering and the financing of terrorism.”.

11 (2) NATIONAL ADVISORY COUNCIL REPORT TO
12 CONGRESS.—The Chairman of the National Advisory
13 Council on International Monetary and Financial
14 Policies shall include in the report required by sec-
15 tion 1701 of the International Financial Institutions
16 Act (22 U.S.C. 262r) a description of—

17 (A) the activities of the International Mon-
18 etary Fund in the most recently completed fis-
19 cal year to provide technical assistance that
20 strengthens the capacity of Fund members to
21 prevent money laundering and the financing of
22 terrorism, and the effectiveness of the assist-
23 ance; and

24 (B) the efficacy of efforts by the United
25 States to support such technical assistance

1 through the use of the Fund’s administrative
2 budget, and the level of such support.

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

8 **SEC. 106. TREASURY ATTACHÉS PROGRAM.**

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

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

12 “(a) IN GENERAL.—There is established the Treas-
13 ury Attachés Program, under which the Secretary of the
14 Treasury shall appoint employees of the Department of
15 the Treasury, after nomination by the Director of the Fi-
16 nancial Crimes Enforcement Network (‘FinCEN’), as a
17 Treasury attaché, who shall—

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

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

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

23 “(4) establish and maintain relationships with
24 foreign counterparts, including employees of min-

1 industries of finance, central banks, and other relevant
2 official entities;

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

6 “(A) information exchanges through
7 FinCEN and FinCEN programs; and

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

10 “(i) United States and multilateral
11 sanctions; and

12 “(ii) international standards on anti-
13 money laundering and the countering of
14 the financing of terrorism; and

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

17 “(b) NUMBER OF ATTACHÉS.—The number of Treas-
18 ury attachés appointed under this section at any one time
19 shall be not fewer than six more employees than the num-
20 ber of employees of the Department of the Treasury serv-
21 ing as Treasury attachés on March 1, 2019.

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

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

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

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

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

“316. Treasury Attachés Program.”.

14 **SEC. 107. INCREASING TECHNICAL ASSISTANCE FOR**
 15 **INTERNATIONAL COOPERATION.**

16 (a) IN GENERAL.—There is authorized to be appro-
 17 priated for each of fiscal years 2020 through 2024 to the
 18 Secretary of the Treasury for purposes of providing tech-
 19 nical assistance that promotes compliance with inter-
 20 national standards and best practices, including in par-
 21 ticular those aimed at the establishment of effective anti-
 22 money laundering and countering the financing of ter-
 23 rorism regimes, in an amount equal to twice the amount
 24 authorized for such purpose for fiscal year 2019.

1 (b) ACTIVITY AND EVALUATION REPORT.—Not later
2 than 360 days after enactment of this Act, and every year
3 thereafter for 5 years, the Secretary of the Treasury shall
4 issue a report to the Congress on the assistance (as de-
5 scribed under subsection (a)) of the Office of Technical
6 Assistance of the Department of the Treasury con-
7 taining—

8 (1) a narrative detailing the strategic goals of
9 the Office in the previous year, with an explanation
10 of how technical assistance provided in the previous
11 year advances the goals;

12 (2) a description of technical assistance pro-
13 vided by the Office in the previous year, including
14 the objectives and delivery methods of the assist-
15 ance;

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

18 (4) a description of how technical assistance
19 provided by the Office complements, duplicates, or
20 otherwise affects or is affected by technical assist-
21 ance provided by the international financial institu-
22 tions (as defined under section 1701(c) of the Inter-
23 national Financial Institutions Act); and

24 (5) a copy of any Federal Government survey of
25 staff perspectives at the Office of Technical Assist-

1 ance, including any findings regarding the Office
2 from the most recently administered Federal Em-
3 ployee Viewpoint Survey.

4 **SEC. 108. FINCEN DOMESTIC LIAISONS.**

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

8 “(e) FINCEN DOMESTIC LIAISONS.—

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

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

14 “(B) be located at an office in such region
15 (or co-located at an office of the Board of Gov-
16 ernors of the Federal Reserve System in such
17 region); and

18 “(C) perform outreach to BSA officers at
19 financial institutions (including non-bank finan-
20 cial institutions) and persons who are not finan-
21 cial institutions, especially with respect to ac-
22 tions taken by FinCEN that require specific ac-
23 tions by, or have specific effects on, such insti-
24 tutions or persons, as determined by the Direc-
25 tor.

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

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

7 “(B) FINANCIAL INSTITUTION.—The term
8 ‘financial institution’ has the meaning given
9 that term under section 5312.”.

10 **SEC. 109. FINCEN EXCHANGE.**

11 Section 310 of title 31, United States Code, as
12 amended by section 108, is further amended by inserting
13 after subsection (e) the following:

14 “(f) FINCEN EXCHANGE.—

15 “(1) ESTABLISHMENT.—The FinCEN Ex-
16 change is hereby established within FinCEN, which
17 shall consist of the FinCEN Exchange program of
18 FinCEN in existence on the day before the date of
19 enactment of this paragraph.

20 “(2) PURPOSE.—The FinCEN Exchange shall
21 facilitate a voluntary public-private information
22 sharing partnership among law enforcement, finan-
23 cial institutions, and FinCEN to—

1 “(A) effectively and efficiently combat
2 money laundering, terrorism financing, orga-
3 nized crime, and other financial crimes;

4 “(B) protect the financial system from il-
5 licit use; and

6 “(C) promote national security.

7 “(3) REPORT.—

8 “(A) IN GENERAL.—Not later than 1 year
9 after the date of enactment of this subsection,
10 and annually thereafter for the next 5 years,
11 the Secretary of the Treasury shall submit to
12 the Committee on Financial Services of the
13 House of Representatives and the Committee
14 on Banking, Housing, and Urban Affairs of the
15 Senate a report containing—

16 “(i) an analysis of the efforts under-
17 taken by the FinCEN Exchange and the
18 results of such efforts;

19 “(ii) an analysis of the extent and ef-
20 fectiveness of the FinCEN Exchange, in-
21 cluding any benefits realized by law en-
22 forcement from partnership with financial
23 institutions; and

24 “(iii) any legislative, administrative,
25 or other recommendations the Secretary

1 may have to strengthen FinCEN Exchange
2 efforts.

3 “(B) CLASSIFIED ANNEX.—Each report
4 under subparagraph (A) may include a classi-
5 fied annex.

6 “(4) INFORMATION SHARING REQUIREMENT.—
7 Information shared pursuant to this subsection shall
8 be shared in compliance with all other applicable
9 Federal laws and regulations.

10 “(5) RULE OF CONSTRUCTION.—Nothing under
11 this subsection may be construed to create new in-
12 formation sharing authorities related to the Bank
13 Secrecy Act (as such term is defined under section
14 5312 of title 31, United States Code).

15 “(6) FINANCIAL INSTITUTION DEFINED.—In
16 this subsection, the term ‘financial institution’ has
17 the meaning given that term under section 5312.”.

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

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

24 (b) REPORT.—Not later than the end of the 1-year
25 period beginning on the date of the enactment of this Act,

1 the Secretary shall issue a report to the Congress con-
2 taining—

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

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

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

10 (d) CONTRACTING AUTHORITY.—The Secretary may
11 contract with a private third-party to carry out the study
12 required under this section. The authority of the Secretary
13 to enter into contracts under this subsection shall be in
14 effect for each fiscal year only to the extent and in the
15 amounts as are provided in advance in appropriations
16 Acts.

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

18 (a) REVIEW.—The Secretary of the Treasury, in con-
19 sultation with appropriate private sector stakeholders, ex-
20 aminers, the Federal functional regulators (as defined
21 under section 103), State bank supervisors, and other rel-
22 evant stakeholders, shall undertake a formal review of—

23 (1) any adverse consequences of financial insti-
24 tutions de-risking entire categories of relationships,
25 including charities, embassy accounts, money serv-

1 ices businesses (as defined under section
2 1010.100(ff) of title 31, Code of Federal Regula-
3 tions) and their agents, countries, international and
4 domestic regions, and respondent banks;

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

7 (3) the association with and effects of de-risk-
8 ing on money laundering and financial crime actors
9 and activities;

10 (4) the most appropriate ways to promote fi-
11 nancial inclusion, particularly with respect to devel-
12 oping countries, while maintaining compliance with
13 the Bank Secrecy Act, including an assessment of
14 policy options to—

15 (A) more effectively tailor Federal actions
16 and penalties to the size of foreign financial in-
17 stitutions and any capacity limitations of for-
18 eign governments; and

19 (B) reduce compliance costs that may lead
20 to the adverse consequences described in para-
21 graph (1);

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

24 (6) the relationship between resources dedicated
25 to compliance and overall sophistication of compli-

1 ance efforts at entities that may be experiencing de-
2 risking versus those that have not experienced de-
3 risking; and

4 (7) any best practices from the private sector
5 that facilitate correspondent bank relationships.

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

9 (c) REPORT.—Not later than the end of the 1-year
10 period beginning on the date of the enactment of this Act,
11 the Secretary, in consultation with the Federal functional
12 regulators, State bank supervisors, and other relevant
13 stakeholders, shall issue a report to the Congress con-
14 taining—

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

18 (2) the strategy developed pursuant to sub-
19 section (b).

20 (d) DEFINITIONS.—In this section:

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

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

5 (3) STATE BANK SUPERVISOR.—The term
6 “State bank supervisor” has the meaning given that
7 term under section 3 of the Federal Deposit Insur-
8 ance Act (12 U.S.C. 1813).

9 **SEC. 112. AML EXAMINATION AUTHORITY DELEGATION**
10 **STUDY.**

11 (a) STUDY.—The Secretary of the Treasury shall
12 carry out a study, in consultation with State bank super-
13 visors (as defined under section 3 of the Federal Deposit
14 Insurance Act (12 U.S.C. 1813)), and other relevant
15 stakeholders, on the Secretary’s delegation of examination
16 authority under the Bank Secrecy Act, including—

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

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

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

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

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

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

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

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

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

24 (b) STRATEGY TO COMBAT CHINESE MONEY LAUN-
 25 DERING.—Upon the completion of the study required

1 under subsection (a), the Secretary shall, in consultation
 2 with such other Federal departments and agencies as the
 3 Secretary determines appropriate, develop a strategy to
 4 combat Chinese money laundering activities.

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

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

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

13 **TITLE II—IMPROVING AML/CFT** 14 **OVERSIGHT**

15 **SEC. 201. PILOT PROGRAM ON SHARING OF SUSPICIOUS** 16 **ACTIVITY REPORTS WITHIN A FINANCIAL** 17 **GROUP.**

18 (a) IN GENERAL.—

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

23 “(5) PILOT PROGRAM ON SHARING WITH FOR-
 24 EIGN BRANCHES, SUBSIDIARIES, AND AFFILIATES.—

1 “(A) IN GENERAL.—The Secretary of the
2 Treasury shall issue rules establishing the pilot
3 program described under subparagraph (B),
4 subject to such controls and restrictions as the
5 Director of the Financial Crimes Enforcement
6 Network determines appropriate, including con-
7 trols and restrictions regarding participation by
8 financial institutions and jurisdictions in the
9 pilot program. In prescribing such rules, the
10 Secretary shall ensure that the sharing of infor-
11 mation described under such subparagraph (B)
12 is subject to appropriate standards and require-
13 ments regarding data security and the confiden-
14 tiality of personally identifiable information.

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

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

1 any other provision of law except subpara-
2 graphs (A) and (C);

3 “(ii) terminate on the date that is 5
4 years after the date of enactment of this
5 paragraph, except that the Secretary may
6 extend the pilot program for up to 2 years
7 upon submitting a report to the Committee
8 on Financial Services of the House of Rep-
9 resentatives and the Committee on Bank-
10 ing, Housing, and Urban Affairs of the
11 Senate that includes—

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

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

21 “(III) a detailed legislative pro-
22 posal providing for a long-term exten-
23 sion of the pilot program activities, in-
24 cluding expected budgetary resources
25 for the activities, if the Secretary de-

1 termines that a long-term extension is
2 appropriate.

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

10 “(i) the People’s Republic of China;

11 “(ii) the Russian Federation; or

12 “(iii) a jurisdiction that—

13 “(I) is subject to counter-
14 measures imposed by the Federal
15 Government;

16 “(II) is a state sponsor of ter-
17 rorism; or

18 “(III) the Secretary has deter-
19 mined cannot reasonably protect the
20 privacy and confidentiality of such in-
21 formation or would otherwise use such
22 information in a manner that is not
23 consistent with the national interest of
24 the United States.

1 “(D) IMPLEMENTATION UPDATES.—Not
2 later than 360 days after the date rules are
3 issued under subparagraph (A), and annually
4 thereafter for 3 years, the Secretary, or the
5 Secretary’s designee, shall brief the Committee
6 on Financial Services of the House of Rep-
7 resentatives and the Committee on Banking,
8 Housing, and Urban Affairs of the Senate on—

9 “(i) the degree of any information
10 sharing permitted under the pilot program,
11 and a description of criteria used by the
12 Secretary to evaluate the appropriateness
13 of the information sharing;

14 “(ii) the effectiveness of the pilot pro-
15 gram in identifying or preventing the viola-
16 tion of a United States law or regulation,
17 and mechanisms that may improve such ef-
18 fectiveness; and

19 “(iii) any recommendations to amend
20 the design of the pilot program.

21 “(E) RULE OF CONSTRUCTION.—Nothing
22 in this paragraph shall be construed as limiting
23 the Secretary’s authority under provisions of
24 law other than this paragraph to establish other
25 permissible purposes or methods for a financial

1 institution sharing reports (and information on
2 such reports) under this subsection with the in-
3 stitution's foreign headquarters or with other
4 branches of the same institution.

5 “(F) NOTICE OF USE OF OTHER AUTHOR-
6 ITY.—If the Secretary, pursuant to any author-
7 ity other than that provided under this para-
8 graph, permits a financial institution to share
9 information on reports under this subsection
10 with a foreign branch, subsidiary, or affiliate lo-
11 cated in a foreign jurisdiction, the Secretary
12 shall notify the Committee on Financial Serv-
13 ices of the House of Representatives and the
14 Committee on Banking, Housing, and Urban
15 Affairs of such permission and the applicable
16 foreign jurisdiction.

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

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

4 (A) in clause (i), by inserting after “trans-
 5 action has been reported” the following: “or
 6 otherwise reveal any information that would re-
 7 veal that the transaction has been reported”;
 8 and

9 (B) in clause (ii), by inserting after “trans-
 10 action has been reported,” the following: “or
 11 otherwise reveal any information that would re-
 12 veal that the transaction has been reported,”.

13 (b) RULEMAKING.—Not later than the end of the
 14 360-day period beginning on the date of enactment of this
 15 Act, the Secretary of the Treasury shall issue regulations
 16 to carry out the amendments made by this section.

17 **SEC. 202. SHARING OF COMPLIANCE RESOURCES.**

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

21 “(o) SHARING OF COMPLIANCE RESOURCES.—

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

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

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

10 **SEC. 203. GAO STUDY ON FEEDBACK LOOPS.**

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

13 (1) best practices within the United States Gov-
14 ernment for providing feedback (“feedback loop”) to
15 relevant parties (including regulated private entities)
16 on the usage and usefulness of personally identifi-
17 able information (“PII”), sensitive-but-unclassified
18 (“SBU”) data, or similar information provided by
19 such parties to Government users of such informa-
20 tion and data (including law enforcement or regu-
21 lators); and

22 (2) any practices or standards inside or outside
23 the United States for providing feedback through
24 sensitive information and public-private partnership
25 information sharing efforts, specifically related to ef-

1 forts to combat money laundering and other forms
2 of illicit finance.

3 (b) REPORT.—Not later than the end of the 18-
4 month period beginning on the date of the enactment of
5 this Act, the Comptroller General shall issue a report to
6 the Committee on Banking, Housing, and Urban Affairs
7 of the Senate and the Committee on Financial Services
8 of the House of Representatives containing—

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

11 (2) with respect to each of paragraphs (1) and
12 (2) of subsection (a), any best practices or signifi-
13 cant concerns identified by the Comptroller General,
14 and their applicability to public-private partnerships
15 and feedback loops with respect to United States ef-
16 forts to combat money laundering and other forms
17 of illicit finance; and

18 (3) recommendations to reduce or eliminate any
19 unnecessary Government collection of the informa-
20 tion described under subsection (a)(1).

21 **SEC. 204. FINCEN STUDY ON BSA VALUE.**

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

1 (b) REPORT.—Not later than the end of the 30-day
 2 period beginning on the date the study under subsection
 3 (a) is completed, the Director shall issue a report to the
 4 Committee on Financial Services of the House of Rep-
 5 resentatives and the Committee on Banking, Housing, and
 6 Urban Affairs of the Senate containing all findings and
 7 determinations made in carrying out the study required
 8 under this section.

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

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

16 **SEC. 205. SHARING OF THREAT PATTERN AND TREND IN-**
 17 **FORMATION.**

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

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

23 “(A) SAR ACTIVITY REVIEW.—The Direc-
 24 tor of the Financial Crimes Enforcement Net-
 25 work shall restart publication of the ‘SAR Ac-

1 tivity Review – Trends, Tips & Issues’, on not
2 less than a semi-annual basis, to provide mean-
3 ingful information about the preparation, use,
4 and value of reports filed under this subsection
5 by financial institutions, as well as other re-
6 ports filed by financial institutions under the
7 Bank Secrecy Act.

8 “(B) INCLUSION OF TYPOLOGIES.—In each
9 publication described under subparagraph (A),
10 the Director shall provide financial institutions
11 with typologies, including data that can be
12 adapted in algorithms (including for artificial
13 intelligence and machine learning programs)
14 where appropriate, on emerging money laun-
15 dering and counter terror financing threat pat-
16 terns and trends.

17 “(C) TYPOLOGY DEFINED.—For purposes
18 of this paragraph, the term ‘typology’ means
19 the various techniques used to launder money
20 or finance terrorism.”.

21 **SEC. 206. MODERNIZATION AND UPGRADING WHISTLE-**
22 **BLOWER PROTECTIONS.**

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

1 “(d) SOURCE OF REWARDS.—For the purposes of
 2 paying a reward under this section, the Secretary may,
 3 subject to amounts made available in advance by appro-
 4 priation Acts, use criminal fine, civil penalty, or forfeiture
 5 amounts recovered based on the original information with
 6 respect to which the reward is being paid.”.

7 (b) WHISTLEBLOWER INCENTIVES.—

8 Chapter 53 of title 31, United States Code, is
 9 amended—

10 (1) by inserting after section 5323 the fol-
 11 lowing:

12 **“§ 5323A. Whistleblower incentives**

13 “(a) DEFINITIONS.—In this section:

14 “(1) COVERED JUDICIAL OR ADMINISTRATIVE
 15 ACTION.—The term ‘covered judicial or administra-
 16 tive action’ means any judicial or administrative ac-
 17 tion brought by FinCEN under the Bank Secrecy
 18 Act that results in monetary sanctions exceeding
 19 \$1,000,000.

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

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

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

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

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

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

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

14 “(C) is not exclusively derived from an al-
15 legation made in a judicial or administrative
16 hearing, in a governmental report, hearing,
17 audit, or investigation, or from the news media,
18 unless the whistleblower is a source of the infor-
19 mation.

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

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

3 “(7) WHISTLEBLOWER.—The term ‘whistle-
4 blower’ means any individual who provides, or two or
5 more individuals acting jointly who provide, informa-
6 tion relating to a violation of laws enforced by
7 FinCEN, in a manner established, by rule or regula-
8 tion, by FinCEN.

9 “(b) AWARDS.—

10 “(1) IN GENERAL.—In any covered judicial or
11 administrative action, or related action, the Sec-
12 retary, under such rules as the Secretary may issue
13 and subject to subsection (c), shall pay an award or
14 awards to one or more whistleblowers who volun-
15 tarily provided original information to FinCEN that
16 led to the successful enforcement of the covered judi-
17 cial or administrative action, or related action, in an
18 aggregate amount equal to not more than 30 per-
19 cent, in total, of what has been collected of the mon-
20 etary sanctions imposed in the action.

21 “(2) SOURCE OF AWARDS.—For the purposes of
22 paying any award under paragraph (1), the Sec-
23 retary may, subject to amounts made available in
24 advance by appropriation Acts, use monetary sanc-
25 tion amounts recovered based on the original infor-

1 mation with respect to which the award is being
2 paid.

3 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-
4 NIAL OF AWARD.—

5 “(1) DETERMINATION OF AMOUNT OF
6 AWARD.—

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

10 “(B) CRITERIA.—In responding to a dis-
11 closure and determining the amount of an
12 award made, FinCEN staff shall meet with the
13 whistleblower to discuss evidence disclosed and
14 rebuttals to the disclosure, and shall take into
15 consideration—

16 “(i) the significance of the informa-
17 tion provided by the whistleblower to the
18 success of the covered judicial or adminis-
19 trative action;

20 “(ii) the degree of assistance provided
21 by the whistleblower and any legal rep-
22 resentative of the whistleblower in a cov-
23 ered judicial or administrative action;

24 “(iii) the mission of FinCEN in deter-
25 ring violations of the law by making

1 awards to whistleblowers who provide in-
2 formation that lead to the successful en-
3 forcement of such laws; and

4 “(iv) such additional relevant factors
5 as the Secretary may establish by rule.

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

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

12 “(i) an appropriate regulatory agency;

13 “(ii) the Department of Justice;

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

15 “(iv) a law enforcement organization;

16 “(B) to any whistleblower who is convicted
17 of a criminal violation, or who the Secretary
18 has a reasonable basis to believe committed a
19 criminal violation, related to the judicial or ad-
20 ministrative action for which the whistleblower
21 otherwise could receive an award under this sec-
22 tion;

23 “(C) to any whistleblower who gains the
24 information through the performance of an
25 audit of financial statements required under the

1 Bank Secrecy Act and for whom such submis-
2 sion would be contrary to its requirements; or

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

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

11 “(d) REPRESENTATION.—

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

15 “(2) REQUIRED REPRESENTATION.—

16 “(A) IN GENERAL.—Any whistleblower
17 who anonymously makes a claim for an award
18 under subsection (b) shall be represented by
19 counsel if the whistleblower anonymously sub-
20 mits the information upon which the claim is
21 based.

22 “(B) DISCLOSURE OF IDENTITY.—Prior to
23 the payment of an award, a whistleblower shall
24 disclose their identity and provide such other

1 information as the Secretary may require, di-
2 rectly or through counsel for the whistleblower.

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

13 “(f) EMPLOYEE PROTECTIONS.—The Secretary of
14 the Treasury shall issue regulations protecting a whistle-
15 blower from retaliation, which shall be as close as prac-
16 ticable to the employee protections provided for under sec-
17 tion 1057 of the Consumer Financial Protection Act of
18 2010.”; and

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

“5323A. Whistleblower incentives.”.

1 **SEC. 207. CERTAIN VIOLATORS BARRED FROM SERVING ON**
2 **BOARDS OF UNITED STATES FINANCIAL IN-**
3 **STITUTIONS.**

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

6 “(f) CERTAIN VIOLATORS BARRED FROM SERVING
7 ON BOARDS OF UNITED STATES FINANCIAL INSTITU-
8 TIONS.—

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

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

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

20 “(B) a civil violation where the individual
21 willfully committed such violation and the viola-
22 tion facilitated money laundering or the financ-
23 ing of terrorism.”.

1 **SEC. 208. ADDITIONAL DAMAGES FOR REPEAT BANK SE-**
2 **CRECY ACT VIOLATORS.**

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

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

19 (b) PROSPECTIVE APPLICATION OF AMENDMENT.—
20 For purposes of determining whether a person has com-
21 mitted a previous violation under section 5321(g) of title
22 31, United States Code, such determination shall only in-
23 clude violations occurring after the date of enactment of
24 this Act.

1 **SEC. 209. JUSTICE ANNUAL REPORT ON DEFERRED AND**
2 **NON-PROSECUTION AGREEMENTS.**

3 (a) ANNUAL REPORT.—The Attorney General shall
4 issue an annual report, every year for the 5 years begin-
5 ning on the date of enactment of this Act, to the Commit-
6 tees on Financial Services and the Judiciary of the House
7 of Representatives and the Committees on Banking, Hous-
8 ing, and Urban Affairs and the Judiciary of the Senate
9 containing—

10 (1) a list of deferred prosecution agreements
11 and non-prosecution agreements that the Attorney
12 General has entered into during the previous year
13 with any person with respect to a violation or sus-
14 pected violation of the Bank Secrecy Act;

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

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

20 (4) the extent of coordination the Attorney
21 General conducted with the Financial Crimes En-
22 forcement Network prior to entering into each such
23 agreement.

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

1 (c) **BANK SECRECY ACT DEFINED.**—For purposes of
 2 this section, the term “Bank Secrecy Act” has the mean-
 3 ing given that term under section 5312 of title 31, United
 4 States Code.

5 **SEC. 210. RETURN OF PROFITS AND BONUSES.**

6 (a) **IN GENERAL.**—Section 5322 of title 31, United
 7 States Code, is amended by adding at the end the fol-
 8 lowing:

9 “(e) **RETURN OF PROFITS AND BONUSES.**—A person
 10 convicted of violating a provision of (or rule issued under)
 11 the Bank Secrecy Act shall—

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

16 “(2) if such person is an individual who was a
 17 partner, director, officer, or employee of a financial
 18 institution at the time the violation occurred, repay
 19 to such financial institution any bonus paid to such
 20 individual during the Federal fiscal year in which
 21 the violation occurred or the Federal fiscal year
 22 after which the violation occurred.”.

23 (b) **RULE OF CONSTRUCTION.**—The amendment
 24 made by subsection (a) may not be construed to prohibit
 25 a financial institution from requiring the repayment of a

1 bonus paid to a partner, director, officer, or employee if
 2 the financial institution determines that the partner, di-
 3 rector, officer, or employee engaged in unethical, but non-
 4 criminal, activities.

5 **SEC. 211. APPLICATION OF BANK SECRECY ACT TO DEAL-**
 6 **ERS IN ANTIQUITIES.**

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

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

11 (2) by redesignating subparagraph (Z) as sub-
 12 paragraph (AA); and

13 (3) by inserting after subsection (Y) the fol-
 14 lowing:

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

20 (b) STUDY ON THE FACILITATION OF MONEY LAUN-
 21 DERING AND TERROR FINANCE THROUGH THE TRADE OF
 22 WORKS OF ART OR ANTIQUITIES.—

23 (1) STUDY.—The Secretary of the Treasury, in
 24 coordination with Federal Bureau of Investigation,
 25 the Attorney General, and Homeland Security Inves-

1 tigungen, shall perform a study on the facilitation of
2 money laundering and terror finance through the
3 trade of works of art or antiquities, including an
4 analysis of—

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

11 (B) whether thresholds and definitions
12 should apply in determining which entities to
13 regulate;

14 (C) an evaluation of which markets, by
15 size, entity type, domestic or international geo-
16 graphical locations, or otherwise, should be sub-
17 ject to regulations, but only to the extent such
18 markets are not already required to report on
19 the trade of works of art or antiquities to the
20 Federal Government;

21 (D) an evaluation of whether certain ex-
22 emptions should apply; and

23 (E) any other points of study or analysis
24 the Secretary determines necessary or appro-
25 priate.

1 (2) REPORT.—Not later than the end of the
2 180-day period beginning on the date of the enact-
3 ment of this Act, the Secretary of the Treasury shall
4 issue a report to the Committee on Financial Serv-
5 ices of the House of Representatives and the Com-
6 mittee on Banking, Housing, and Urban Affairs of
7 the Senate containing all findings and determina-
8 tions made in carrying out the study required under
9 paragraph (1).

10 (c) RULEMAKING.—Not later than the end of the
11 180-day period beginning on the date the Secretary issues
12 the report required under subsection (b)(2), the Secretary
13 shall issue regulations to carry out the amendments made
14 by subsection (a).

15 **SEC. 212. GEOGRAPHIC TARGETING ORDER.**

16 The Secretary of the Treasury shall issue a geo-
17 graphic targeting order, similar to the order issued by the
18 Financial Crimes Enforcement Network on November 15,
19 2018, that—

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

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

3 **SEC. 213. STUDY AND REVISIONS TO CURRENCY TRANS-**
4 **ACTION REPORTS AND SUSPICIOUS ACTIVITY**
5 **REPORTS.**

6 (a) CURRENCY TRANSACTION REPORTS.—

7 (1) CTR INDEXED FOR INFLATION.—

8 (A) IN GENERAL.—Every 5 years after the
9 date of enactment of this Act, the Secretary of
10 the Treasury shall revise regulations issued
11 with respect to section 5313 of title 31, United
12 States Code, to update each \$10,000 threshold
13 amount in such regulation to reflect the change
14 in the Consumer Price Index for All Urban
15 Consumers published by the Department of
16 Labor, rounded to the nearest \$100. For pur-
17 poses of calculating the change described in the
18 previous sentence, the Secretary shall use
19 \$10,000 as the base amount and the date of en-
20 actment of this Act as the base date.

21 (B) EXCEPTION.—Notwithstanding sub-
22 paragraph (A), the Secretary may make appro-
23 priate adjustments to the threshold amounts
24 described under subparagraph (A) in high-risk
25 areas (e.g., High Intensity Financial Crime

1 Areas or HIFCAs), if the Secretary has demon-
2 strable evidence that shows a threshold raise
3 would increase serious crimes, such as traf-
4 ficking, or endanger national security.

5 (2) GAO CTR STUDY.—

6 (A) STUDY.—The Comptroller General of
7 the United States shall carry out a study of
8 currency transaction reports. Such study shall
9 include—

10 (i) a review (carried out in consulta-
11 tion with the Secretary of the Treasury,
12 the Financial Crimes Enforcement Net-
13 work, the United States Attorney General,
14 the State Attorneys General, and State,
15 Tribal, and local law enforcement) of the
16 effectiveness of the current currency trans-
17 action reporting regime;

18 (ii) an analysis of the importance of
19 currency transaction reports to law en-
20 forcement; and

21 (iii) an analysis of the effects of rais-
22 ing the currency transaction report thresh-
23 old.

24 (B) REPORT.—Not later than the end of
25 the 1-year period beginning on the date of en-

actment of this Act, the Comptroller General shall issue a report to the Secretary of the Treasury and the Congress containing—

(i) all findings and determinations made in carrying out the study required under subparagraph (A); and

(ii) recommendations for improving the current currency transaction reporting regime.

(b) MODIFIED SARs STUDY AND DESIGN.—

(1) STUDY.—The Director of the Financial Crimes Enforcement Network shall carry out a study, in consultation with industry stakeholders (including money services businesses, community banks, and credit unions), the Federal functional regulators, State bank supervisors, and law enforcement, of the design of a modified suspicious activity report form for certain customers and activities.

Such study shall include—

(A) an examination of appropriate optimal SARs thresholds to determine the level at which a modified SARs form could be employed;

(B) an evaluation of which customers or transactions would be appropriate for a modified SAR, including—

- 1 (i) seasoned business customers;
2 (ii) financial technology (Fintech)
3 firms;
4 (iii) structuring transactions; and
5 (iv) any other customer or transaction
6 that may be appropriate for a modified
7 SAR; and
8 (C) an analysis of the most effective meth-
9 ods to reduce the regulatory burden imposed on
10 financial institutions in complying with the
11 Bank Secrecy Act, including an analysis of the
12 effect of—
13 (i) modifying thresholds;
14 (ii) shortening forms;
15 (iii) combining Bank Secrecy Act
16 forms;
17 (iv) filing reports in periodic batches;
18 and
19 (v) any other method that may reduce
20 the regulatory burden.

21 (2) STUDY CONSIDERATIONS.—In carrying out
22 the study required under paragraph (1), the Direc-
23 tor shall seek to balance law enforcement priorities,
24 regulatory burdens experienced by financial institu-
25 tions, and the requirement for reports to have a

1 “high degree of usefulness to law enforcement”
2 under the Bank Secrecy Act.

3 (3) REPORT.—Not later than the end of the 1-
4 year period beginning on the date of enactment of
5 this Act, the Director shall issue a report to Con-
6 gress containing—

7 (A) all findings and determinations made
8 in carrying out the study required under sub-
9 section (a); and

10 (B) sample designs of modified SARs
11 forms based on the study results.

12 (4) CONTRACTING AUTHORITY.—The Director
13 may contract with a private third-party to carry out
14 the study required under this subsection. The au-
15 thority of the Director to enter into contracts under
16 this paragraph shall be in effect for each fiscal year
17 only to the extent and in the amounts as are pro-
18 vided in advance in appropriations Acts.

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

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

23 (2) FEDERAL FUNCTIONAL REGULATOR.—The
24 term “Federal functional regulator” has the mean-
25 ing given that term under section 103.

1 (3) REGULATORY BURDEN.—The term “regu-
2 latory burden” means the man-hours to complete fil-
3 ings, cost of data collection and analysis, and other
4 considerations of chapter 35 of title 44, United
5 States Code (commonly referred to as the Paper-
6 work Reduction Act).

7 (4) SAR; SUSPICIOUS ACTIVITY REPORT.—The
8 term “SAR” and “suspicious activity report” mean
9 a report of a suspicious transaction under section
10 5318(g) of title 31, United States Code.

11 (5) SEASONED BUSINESS CUSTOMER.—The
12 term “seasoned business customer”, shall have such
13 meaning as the Secretary of the Treasury shall pre-
14 scribe, which shall include any person that—

15 (A) is incorporated or organized under the
16 laws of the United States or any State, or is
17 registered as, licensed by, or otherwise eligible
18 to do business within the United States, a
19 State, or political subdivision of a State;

20 (B) has maintained an account with a fi-
21 nancial institution for a length of time as deter-
22 mined by the Secretary; and

23 (C) meet such other requirements as the
24 Secretary may determine necessary or appro-
25 priate.

1 (6) STATE BANK SUPERVISOR.—The term
2 “State bank supervisor” has the meaning given that
3 term under section 3 of the Federal Deposit Insur-
4 ance Act (12 U.S.C. 1813).

5 **SEC. 214. STREAMLINING REQUIREMENTS FOR CURRENCY**
6 **TRANSACTION REPORTS AND SUSPICIOUS**
7 **ACTIVITY REPORTS.**

8 (a) REVIEW.—The Secretary of the Treasury (in con-
9 sultation with Federal law enforcement agencies, the Di-
10 rector of National Intelligence, the Federal functional reg-
11 ulators, and State bank supervisors and in consultation
12 with other relevant stakeholders) shall undertake a formal
13 review of the current financial institution reporting re-
14 quirements under the Bank Secrecy Act and its imple-
15 menting regulations and propose changes to further re-
16 duce regulatory burdens, and ensure that the information
17 provided is of a “high degree of usefulness” to law en-
18 forcement, as set forth under section 5311 of title 31,
19 United States Code.

20 (b) CONTENTS.—The review required under sub-
21 section (a) shall include a study of—

22 (1) whether the timeframe for filing a sus-
23 picious activity report should be increased from 30
24 days;

1 (2) whether or not currency transaction report
2 and suspicious activity report thresholds should be
3 tied to inflation or otherwise periodically be ad-
4 justed;

5 (3) whether the circumstances under which a fi-
6 nancial institution determines whether to file a “con-
7 tinuing suspicious activity report”, or the processes
8 followed by a financial institution in determining
9 whether to file a “continuing suspicious activity re-
10 port” (or both) can be narrowed;

11 (4) analyzing the fields designated as “critical”
12 on the suspicious activity report form and whether
13 the number of fields should be reduced;

14 (5) the increased use of exemption provisions to
15 reduce currency transaction reports that are of little
16 or no value to law enforcement efforts;

17 (6) the current financial institution reporting
18 requirements under the Bank Secrecy Act and its
19 implementing regulations and guidance; and

20 (7) such other items as the Secretary deter-
21 mines appropriate.

22 (c) REPORT.—Not later than the end of the 1 year
23 period beginning on the date of the enactment of this Act,
24 the Secretary of the Treasury, in consultation with law
25 enforcement and persons subject to Bank Secrecy Act re-

1 quirements, shall issue a report to the Congress containing
 2 all findings and determinations made in carrying out the
 3 review required under subsection (a).

4 (d) DEFINITIONS.—For purposes of this section:

5 (1) FEDERAL FUNCTIONAL REGULATOR.—The
 6 term “Federal functional regulator” has the mean-
 7 ing given that term under section 103.

8 (2) STATE BANK SUPERVISOR.—The term
 9 “State bank supervisor” has the meaning given that
 10 term under section 3 of the Federal Deposit Insur-
 11 ance Act (12 U.S.C. 1813).

12 (3) OTHER TERMS.—The terms “Bank Secrecy
 13 Act” and “financial institution” have the meaning
 14 given those terms, respectively, under section 5312
 15 of title 31, United States Code.

16 **TITLE III—MODERNIZING THE** 17 **AML SYSTEM**

18 **SEC. 301. ENCOURAGING INNOVATION IN BSA COMPLI-** 19 **ANCE.**

20 Section 5318 of title 31, United States Code, as
 21 amended by section 202, is further amended by adding
 22 at the end the following:

23 “(p) ENCOURAGING INNOVATION IN COMPLIANCE.—

24 “(1) IN GENERAL.—The Federal functional reg-
 25 ulators shall encourage financial institutions to con-

1 sider, evaluate, and, where appropriate, responsibly
2 implement innovative approaches to meet the re-
3 quirements of this subchapter, including through the
4 use of innovation pilot programs.

5 “(2) EXEMPTIVE RELIEF.—The Secretary, pur-
6 suant to subsection (a), may provide exemptions
7 from the requirements of this subchapter if the Sec-
8 retary determines such exemptions are necessary to
9 facilitate the testing and potential use of new tech-
10 nologies and other innovations.

11 “(3) RULE OF CONSTRUCTION.—This sub-
12 section may not be construed to require financial in-
13 stitutions to consider, evaluate, or implement innova-
14 tive approaches to meet the requirements of the
15 Bank Secrecy Act.

16 “(4) FEDERAL FUNCTIONAL REGULATOR DE-
17 FINED.—In this subsection, the term ‘Federal func-
18 tional regulator’ means the Board of Governors of
19 the Federal Reserve System, the Comptroller of the
20 Currency, the Federal Deposit Insurance Corpora-
21 tion, the National Credit Union Administration, the
22 Securities and Exchange Commission, and the Com-
23 modity Futures Trading Commission.”.

1 **SEC. 302. INNOVATION LABS.**

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

5 **“§ 5333. Innovation Labs**

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

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

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

15 “(1) to provide outreach to law enforcement
16 agencies, State bank supervisors, financial institu-
17 tions, and other persons (including vendors and
18 technology companies) with respect to innovation
19 and new technologies that may be used to comply
20 with the requirements of the Bank Secrecy Act;

21 “(2) to support the implementation of respon-
22 sible innovation and new technology, in a manner
23 that complies with the requirements of the Bank Se-
24 crecy Act;

25 “(3) to explore opportunities for public-private
26 partnerships; and

1 “(4) to develop metrics of success.

2 “(d) FINCEN LAB.—The Innovation Lab established
3 under subsection (a) within the Department of the Treas-
4 ury shall be a lab within the Financial Crimes Enforce-
5 ment Network.

6 “(e) DEFINITIONS.—In this subsection:

7 “(1) FEDERAL FUNCTIONAL REGULATOR.—The
8 term ‘Federal functional regulator’ means the Board
9 of Governors of the Federal Reserve System, the
10 Comptroller of the Currency, the Federal Deposit
11 Insurance Corporation, the National Credit Union
12 Administration, the Securities and Exchange Com-
13 mission, and the Commodity Futures Trading Com-
14 mission.

15 “(2) STATE BANK SUPERVISOR.—The term
16 ‘State bank supervisor’ has the meaning given that
17 term under section 3 of the Federal Deposit Insur-
18 ance Act (12 U.S.C. 1813).”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 for subchapter II of chapter 53 of title 31, United States
21 Code, is amended by adding at the end the following:

“5333. Innovation Labs.”.

22 **SEC. 303. INNOVATION COUNCIL.**

23 (a) IN GENERAL.—Subchapter II of chapter 53 of
24 Title 31, United States Code, as amended by section 302,
25 is further amended by adding at the end the following:

1 **“§ 5334. Innovation Council**

2 “(a) ESTABLISHMENT.—There is established the In-
3 novation Council (hereinafter in this section referred to
4 as the ‘Council’), which shall consist of each Director of
5 an Innovation Lab established under section 5334, a rep-
6 resentative of State bank supervisors (as defined under
7 section 3 of the Federal Deposit Insurance Act (12 U.S.C.
8 1813)), and the Director of the Financial Crimes Enforce-
9 ment Network.

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

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

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

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

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

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

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

1 on the activities of the Council during the previous year,
 2 including the success of programs as measured by metrics
 3 of success developed pursuant to section 5334(c)(4), and
 4 any regulatory or legislative recommendations that the
 5 Council may have.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
 7 for subchapter II of chapter 53 of title 31, United States
 8 Code, is amended by adding the end the following:

“5334. Innovation Council.”.

9 **SEC. 304. TESTING METHODS RULEMAKING.**

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

13 “(q) TESTING.—

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

19 “(A) with respect to technology and related
 20 technology-internal processes (‘new technology’)
 21 designed to facilitate compliance with the Bank
 22 Secrecy Act requirements, the standards by
 23 which financial institutions are to test new
 24 technology; and

1 “(B) in what instances or under what cir-
2 cumstance and criteria a financial institution
3 may replace or terminate legacy technology and
4 processes for any examinable technology or
5 process without the replacement or termination
6 being determined an examination deficiency.

7 “(2) STANDARDS.—The standards described
8 under paragraph (1) may include—

9 “(A) an emphasis on using innovative ap-
10 proaches, such as machine learning, rather than
11 rules-based systems;

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

14 “(C) requirements for appropriate data
15 privacy and security; and

16 “(D) a requirement that the algorithms
17 used by the regime be disclosed to the Financial
18 Crimes Enforcement Network, upon request.

19 “(3) CONFIDENTIALITY OF ALGORITHMS.—If a
20 financial institution or any director, officer, em-
21 ployee, or agent of any financial institution, volun-
22 tarily or pursuant to this subsection or any other au-
23 thority, discloses the institution’s algorithms to a
24 Government agency, such algorithms and any mate-
25 rials associated with the creation of such algorithms

1 shall be considered confidential and not subject to
2 public disclosure.”.

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

5 (1) that any manual prepared by the Council is
6 updated to reflect the rulemaking required by the
7 amendment made by subsection (a); and

8 (2) that financial institutions are not penalized
9 for the decisions based on such rulemaking to re-
10 place or terminate technology used for compliance
11 with the Bank Secrecy Act (as defined under section
12 5312 of title 31, United States Code) or other anti-
13 money laundering laws.

14 **SEC. 305. FINCEN STUDY ON USE OF EMERGING TECH-**
15 **NOLOGIES.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Director of the Finan-
18 cial Crimes Enforcement Network (“FinCEN”) shall
19 carry out a study on—

20 (A) the status of implementation and in-
21 ternal use of emerging technologies, including
22 artificial intelligence (“AI”), digital identity
23 technologies, blockchain technologies, and other
24 innovative technologies within FinCEN;

1 (B) whether AI, digital identity tech-
2 nologies, blockchain technologies, and other in-
3 novative technologies can be further leveraged
4 to make FinCEN’s data analysis more efficient
5 and effective; and

6 (C) how FinCEN could better utilize AI,
7 digital identity technologies, blockchain tech-
8 nologies, and other innovative technologies to
9 more actively analyze and disseminate the infor-
10 mation it collects and stores to provide inves-
11 tigative leads to Federal, State, Tribal, and
12 local law enforcement, and other Federal agen-
13 cies (collective, “Agencies”), and better support
14 its ongoing investigations when referring a case
15 to the Agencies.

16 (2) INCLUSION OF GTO DATA.—The study re-
17 quired under this subsection shall include data col-
18 lected through the Geographic Targeting Orders
19 (“GTO”) program.

20 (3) CONSULTATION.—In conducting the study
21 required under this subsection, FinCEN shall con-
22 sult with the Directors of the Innovations Labs es-
23 tablished in section 302.

24 (b) REPORT.—Not later than the end of the 6-month
25 period beginning on the date of the enactment of this Act,

1 the Director shall issue a report to the Committee on
2 Banking, Housing, and Urban Affairs of the Senate and
3 the Committee on Financial Services of the House of Rep-
4 resentatives containing—

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

7 (2) with respect to each of subparagraphs (A),
8 (B) and (C) of subsection (a)(1), any best practices
9 or significant concerns identified by the Director,
10 and their applicability to AI, digital identity tech-
11 nologies, blockchain technologies, and other innova-
12 tive technologies with respect to United States ef-
13 forts to combat money laundering and other forms
14 of illicit finance; and

15 (3) any policy recommendations that could fa-
16 cilitate and improve communication and coordination
17 between the private sector, FinCEN, and Agencies
18 through the implementation of innovative ap-
19 proaches, in order to meet their Bank Secrecy Act
20 (as defined under section 5312 of title 31, United
21 States Code) and anti-money laundering compliance
22 obligations.

1 **SEC. 306. DISCRETIONARY SURPLUS FUNDS.**

2 (a) IN GENERAL.—The dollar amount specified
3 under section 7(a)(3)(A) of the Federal Reserve Act (12
4 U.S.C. 289(a)(3)(A)) is reduced by \$27,000,000.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect on September 30, 2029.

Passed the House of Representatives October 28,
2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 2514

AN ACT

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