

## Calendar No. 185

107TH CONGRESS  
1ST SESSION**S. 1511**

To combat international money laundering, thwart the financing of terrorism,  
and protect the United States financial system, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 9, 2001

Mr. SARBANES, from the Committee on Banking, reported the following  
original bill; which was read twice and placed on the calendar

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**A BILL**

To combat international money laundering, thwart the fi-  
nancing of terrorism, and protect the United States fi-  
nancial system, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “International Money Laundering Abatement and Anti-  
6       Terrorist Financing Act of 2001”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. 4-Year congressional review-expedited consideration.

#### TITLE I—INTERNATIONAL COUNTER MONEY LAUNDERING AND RELATED MEASURES

- Sec. 101. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.
- Sec. 102. Special due diligence for correspondent accounts and private banking accounts.
- Sec. 103. Prohibition on United States correspondent accounts with foreign shell banks.
- Sec. 104. Cooperative efforts to deter money laundering.
- Sec. 105. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 106. Anti-terrorist forfeiture protection.
- Sec. 107. Long-arm jurisdiction over foreign money launderers.
- Sec. 108. Laundering money through a foreign bank.
- Sec. 109. Forfeiture of funds in United States interbank accounts.
- Sec. 110. Proceeds of foreign crimes.
- Sec. 111. Exclusion of aliens involved in money laundering.
- Sec. 112. Corporation represented by a fugitive.
- Sec. 113. Enforcement of foreign judgments.
- Sec. 114. Increase in civil and criminal penalties for money laundering.
- Sec. 115. Report and recommendation.
- Sec. 116. Report on effectiveness.
- Sec. 117. Concentration accounts at financial institutions.

#### TITLE II—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS

- Sec. 201. Amendments relating to reporting of suspicious activities.
- Sec. 202. Anti-money laundering programs.
- Sec. 203. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.
- Sec. 204. Anti-money laundering strategy.
- Sec. 205. Authorization to include suspicions of illegal activity in written employment references.
- Sec. 206. Bank Secrecy Act advisory group.
- Sec. 207. Agency reports on reconciling penalty amounts.
- Sec. 208. Reporting of suspicious activities by securities brokers and dealers.
- Sec. 209. Special report on administration of Bank Secrecy provisions.
- Sec. 210. Bank Secrecy provisions and anti-terrorist activities of United States intelligence agencies.
- Sec. 211. Reporting of suspicious activities by hawala and other underground banking systems.
- Sec. 212. Use of Authority of the United States Executive Directors.

#### TITLE III—CURRENCY CRIMES

- Sec. 301. Bulk cash smuggling.

#### TITLE IV—ANTICORRUPTION MEASURES

- Sec. 401. Corruption of foreign governments and ruling elites.

Sec. 402. Support for the financial action task force on money laundering.

Sec. 403. Terrorist funding through money laundering.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) money laundering, estimated by the Inter-  
4 national Monetary Fund to amount to between 2  
5 and 5 percent of global gross domestic product,  
6 which is at least \$600,000,000,000 annually, pro-  
7 vides the financial fuel that permits transnational  
8 criminal enterprises to conduct and expand their op-  
9 erations to the detriment of the safety and security  
10 of American citizens;

11 (2) money laundering, and the defects in finan-  
12 cial transparency on which money launderers rely,  
13 are critical to the financing of global terrorism and  
14 the provision of funds for terrorist attacks;

15 (3) money launderers subvert legitimate finan-  
16 cial mechanisms and banking relationships by using  
17 them as protective covering for the movement of  
18 criminal proceeds and the financing of crime and  
19 terrorism, and, by so doing, can threaten the safety  
20 of United States citizens and undermine the integ-  
21 rity of United States financial institutions and of the  
22 global financial and trading systems upon which  
23 prosperity and growth depend;

1           (4) certain jurisdictions outside of the United  
2       States that offer “offshore” banking and related fa-  
3       cilities designed to provide anonymity, coupled with  
4       special tax advantages and weak financial super-  
5       visory and enforcement regimes, provide essential  
6       tools to disguise ownership and movement of crimi-  
7       nal funds, derived from, or used to commit, offenses  
8       ranging from narcotics trafficking, terrorism, arms  
9       smuggling, and trafficking in human beings, to fi-  
10      nancial frauds that prey on law-abiding citizens;

11          (5) transactions involving such offshore juris-  
12      dictions make it difficult for law enforcement offi-  
13      cials and regulators to follow the trail of money  
14      earned by criminals, organized international criminal  
15      enterprises, and global terrorist organizations;

16          (6) correspondent banking facilities are one of  
17      the banking mechanisms susceptible in some cir-  
18      cumstances to manipulation by foreign banks to per-  
19      mit the laundering of funds by hiding the identity of  
20      real parties in interest to financial transactions;

21          (7) private banking services can be susceptible  
22      to manipulation by money launderers, for example  
23      corrupt foreign government officials, particularly if  
24      those services include the creation of offshore ac-  
25      counts and facilities for large personal funds trans-

1       fers to channel funds into accounts around the  
2       globe;

3           (8) United States anti-money laundering efforts  
4       are impeded by outmoded and inadequate statutory  
5       provisions that make investigations, prosecutions,  
6       and forfeitures more difficult, particularly in cases  
7       in which money laundering involves foreign persons,  
8       foreign banks, or foreign countries;

9           (9) the ability to mount effective counter-meas-  
10      ures to international money launderers requires na-  
11      tional, as well as bilateral and multilateral action,  
12      using tools specially designed for that effort; and

13          (10) the Basle Committee on Banking Regula-  
14      tion and Supervisory Practices and the Financial  
15      Action Task Force on Money Laundering, of both of  
16      which the United States is a member, have each  
17      adopted international anti-money laundering prin-  
18      ciples and recommendations.

19      (b) PURPOSES.—The purposes of this Act are—

20          (1) to increase the strength of United States  
21      measures to prevent, detect, and prosecute inter-  
22      national money laundering and the financing of ter-  
23      rorism;

24          (2) to ensure that—

1           (A) banking transactions and financial re-  
2           lationships and the conduct of such transactions  
3           and relationships, do not contravene the pur-  
4           poses of subchapter II of chapter 53 of title 31,  
5           United States Code, section 21 of the Federal  
6           Deposit Insurance Act, or chapter 2 of title I  
7           of Public Law 91–508 (84 Stat. 1116), or fa-  
8           cilitate the evasion of any such provision; and

9           (B) the purposes of such provisions of law  
10          continue to be fulfilled, and that such provisions  
11          of law are effectively and efficiently adminis-  
12          tered;

13          (3) to strengthen the provisions put into place  
14          by the Money Laundering Control Act of 1986 (18  
15          U.S.C. 981 note), especially with respect to crimes  
16          by non-United States nationals and foreign financial  
17          institutions;

18          (4) to provide a clear national mandate for sub-  
19          jecting to special scrutiny those foreign jurisdictions,  
20          financial institutions operating outside of the United  
21          States, and classes of international transactions that  
22          pose particular, identifiable opportunities for crimi-  
23          nal abuse;

24          (5) to provide the Secretary of the Treasury (in  
25          this Act referred to as the “Secretary”) with broad

1 discretion, subject to the safeguards provided by the  
2 Administrative Procedures Act under title 5, United  
3 States Code, to take measures tailored to the par-  
4 ticular money laundering problems presented by spe-  
5 cific foreign jurisdictions, financial institutions oper-  
6 ating outside of the United States, and classes of  
7 international transactions;

8 (6) to ensure that the employment of such  
9 measures by the Secretary permits appropriate op-  
10 portunity for comment by affected financial institu-  
11 tions;

12 (7) to provide guidance to domestic financial in-  
13 stitutions on particular foreign jurisdictions, finan-  
14 cial institutions operating outside of the United  
15 States, and classes of international transactions that  
16 are of primary money laundering concern to the  
17 United States Government;

18 (8) to ensure that the forfeiture of any assets  
19 in connection with the anti-terrorist efforts of the  
20 United States permits for adequate challenge con-  
21 sistent with providing due process rights;

22 (9) to clarify the terms of the safe harbor from  
23 civil liability for filing suspicious activity reports;

24 (10) to strengthen the authority of the Sec-  
25 retary to issue and administer geographic targeting

1 orders, and to clarify that violations of such orders  
2 or any other requirement imposed under the author-  
3 ity contained in chapter 2 of title I of Public Law  
4 91–508 and subchapters II and III of chapter 53 of  
5 title 31, United States Code, may result in criminal  
6 and civil penalties;

7 (11) to ensure that all appropriate elements of  
8 the financial services industry are subject to appro-  
9 priate requirements to report potential money laun-  
10 dering transactions to proper authorities, and that  
11 jurisdictional disputes do not hinder examination of  
12 compliance by financial institutions with relevant re-  
13 porting requirements;

14 (12) to fix responsibility for high level coordina-  
15 tion of the anti-money laundering efforts of the De-  
16 partment of the Treasury;

17 (13) to strengthen the ability of financial insti-  
18 tutions to maintain the integrity of their employee  
19 population; and

20 (14) to strengthen measures to prevent the use  
21 of the United States financial system for personal  
22 gain by corrupt foreign officials and to facilitate the  
23 repatriation of any stolen assets to the citizens of  
24 countries to whom such assets belong.



1 **SEC. 3. 4-YEAR CONGRESSIONAL REVIEW-EXPEDITED CON-**  
2 **SIDERATION.**

3 (a) IN GENERAL.—Effective on and after the first  
4 day of fiscal year 2005, the provisions of this Act and the  
5 amendments made by this Act shall terminate if the Con-  
6 gress enacts a joint resolution, the text after the resolving  
7 clause of which is as follows: “That provisions of the Inter-  
8 national Money Laundering Abatement and Anti-Terrorist  
9 Financing Act of 2001, and the amendments made there-  
10 by, shall no longer have the force of law.”.

11 (b) EXPEDITED CONSIDERATION.—Any joint resolu-  
12 tion submitted pursuant to this section shall be considered  
13 in the Senate in accordance with the provisions of section  
14 601(b) of the International Security Assistance and Arms  
15 Control Act of 1976. For the purpose of expediting the  
16 consideration and enactment of a joint resolution under  
17 this section, a motion to proceed to the consideration of  
18 any such joint resolution after it has been reported by the  
19 appropriate committee, shall be treated as highly privi-  
20 leged in the House of Representatives.

1 **TITLE I—INTERNATIONAL**  
 2 **COUNTER MONEY LAUN-**  
 3 **DERING AND RELATED MEAS-**  
 4 **URES**

5 **SEC. 101. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**  
 6 **CIAL INSTITUTIONS, OR INTERNATIONAL**  
 7 **TRANSACTIONS OF PRIMARY MONEY LAUN-**  
 8 **DERING CONCERN.**

9 (a) IN GENERAL.—Subchapter II of chapter 53 of  
 10 title 31, United States Code, is amended by inserting after  
 11 section 5318 the following new section:

12 **“SEC. 5318A. SPECIAL MEASURES FOR JURISDICTIONS, FI-**  
 13 **NANCIAL INSTITUTIONS, OR INTERNATIONAL**  
 14 **TRANSACTIONS OF PRIMARY MONEY LAUN-**  
 15 **DERING CONCERN.**

16 **“(a) INTERNATIONAL COUNTER-MONEY LAUN-**  
 17 **DERING REQUIREMENTS.—**

18 **“(1) IN GENERAL.—**The Secretary may require  
 19 domestic financial institutions and domestic financial  
 20 agencies to take 1 or more of the special measures  
 21 described in subsection (b) if the Secretary finds  
 22 that reasonable grounds exist for concluding that a  
 23 jurisdiction outside of the United States, 1 or more  
 24 financial institutions operating outside of the United  
 25 States, 1 or more classes of transactions within, or

1 involving, a jurisdiction outside of the United States,  
2 or 1 or more types of accounts is of primary money  
3 laundering concern, in accordance with subsection  
4 (c).

5 “(2) FORM OF REQUIREMENT.—The special  
6 measures described in—

7 “(A) subsection (b) may be imposed in  
8 such sequence or combination as the Secretary  
9 shall determine;

10 “(B) paragraphs (1) through (4) of sub-  
11 section (b) may be imposed by regulation,  
12 order, or otherwise as permitted by law; and

13 “(C) subsection (b)(5) may be imposed  
14 only by regulation.

15 “(3) DURATION OF ORDERS; RULEMAKING.—  
16 Any order by which a special measure described in  
17 paragraphs (1) through (4) of subsection (b) is im-  
18 posed (other than an order described in section  
19 5326)—

20 “(A) shall be issued together with a notice  
21 of proposed rulemaking relating to the imposi-  
22 tion of such special measure; and

23 “(B) may not remain in effect for more  
24 than 120 days, except pursuant to a rule pro-  
25 mulgated on or before the end of the 120-day

1 period beginning on the date of issuance of  
2 such order.

3 “(4) PROCESS FOR SELECTING SPECIAL MEAS-  
4 URES.—In selecting which special measure or meas-  
5 ures to take under this subsection, the Secretary—

6 “(A) shall consult with the Chairman of  
7 the Board of Governors of the Federal Reserve  
8 System, any other appropriate Federal banking  
9 agency, as defined in section 3 of the Federal  
10 Deposit Insurance Act, the Securities and Ex-  
11 change Commission, the National Credit Union  
12 Administration Board, and in the sole discre-  
13 tion of the Secretary such other agencies and  
14 interested parties as the Secretary may find to  
15 be appropriate; and

16 “(B) shall consider—

17 “(i) whether similar action has been  
18 or is being taken by other nations or multi-  
19 lateral groups;

20 “(ii) whether the imposition of any  
21 particular special measure would create a  
22 significant competitive disadvantage, in-  
23 cluding any undue cost or burden associ-  
24 ated with compliance, for financial institu-

1           tions organized or licensed in the United  
2           States; and

3           “(iii) the extent to which the action or  
4           the timing of the action would have a sig-  
5           nificant adverse systemic impact on the  
6           international payment, clearance, and set-  
7           tlement system, or on legitimate business  
8           activities involving the particular jurisdic-  
9           tion, institution, or class of transactions.

10          “(5) NO LIMITATION ON OTHER AUTHORITY.—

11          This section shall not be construed as superseding or  
12          otherwise restricting any other authority granted to  
13          the Secretary, or to any other agency, by this sub-  
14          chapter or otherwise.

15          “(b) SPECIAL MEASURES.—The special measures re-  
16          ferred to in subsection (a), with respect to a jurisdiction  
17          outside of the United States, financial institution oper-  
18          ating outside of the United States, class of transaction  
19          within, or involving, a jurisdiction outside of the United  
20          States, or 1 or more types of accounts are as follows:

21          “(1) RECORDKEEPING AND REPORTING OF  
22          CERTAIN FINANCIAL TRANSACTIONS.—

23          “(A) IN GENERAL.—The Secretary may re-  
24          quire any domestic financial institution or do-  
25          mestic financial agency to maintain records, file

1 reports, or both, concerning the aggregate  
2 amount of transactions, or concerning each  
3 transaction, with respect to a jurisdiction out-  
4 side of the United States, 1 or more financial  
5 institutions operating outside of the United  
6 States, 1 or more classes of transactions within,  
7 or involving, a jurisdiction outside of the United  
8 States, or 1 or more types of accounts if the  
9 Secretary finds any such jurisdiction, institu-  
10 tion, or class of transactions to be of primary  
11 money laundering concern.

12 “(B) FORM OF RECORDS AND REPORTS.—

13 Such records and reports shall be made and re-  
14 tained at such time, in such manner, and for  
15 such period of time, as the Secretary shall de-  
16 termine, and shall include such information as  
17 the Secretary may determine, including—

18 “(i) the identity and address of the  
19 participants in a transaction or relation-  
20 ship, including the identity of the origi-  
21 nator of any funds transfer;

22 “(ii) the legal capacity in which a par-  
23 ticipant in any transaction is acting;

24 “(iii) the identity of the beneficial  
25 owner of the funds involved in any trans-

1                   action, in accordance with such procedures  
2                   as the Secretary determines to be reason-  
3                   able and practicable to obtain and retain  
4                   the information; and

5                   “(iv) a description of any transaction.

6                   “(2) INFORMATION RELATING TO BENEFICIAL  
7                   OWNERSHIP.—In addition to any other requirement  
8                   under any other provision of law, the Secretary may  
9                   require any domestic financial institution or domes-  
10                  tic financial agency to take such steps as the Sec-  
11                  retary may determine to be reasonable and prac-  
12                  ticable to obtain and retain information concerning  
13                  the beneficial ownership of any account opened or  
14                  maintained in the United States by a foreign person  
15                  (other than a foreign entity whose shares are subject  
16                  to public reporting requirements or are listed and  
17                  traded on a regulated exchange or trading market),  
18                  or a representative of such a foreign person, that in-  
19                  volves a jurisdiction outside of the United States, 1  
20                  or more financial institutions operating outside of  
21                  the United States, 1 or more classes of transactions  
22                  within, or involving, a jurisdiction outside of the  
23                  United States, or 1 or more types of accounts if the  
24                  Secretary finds any such jurisdiction, institution, or

1 transaction to be of primary money laundering con-  
2 cern.

3 “(3) INFORMATION RELATING TO CERTAIN PAY-  
4 ABLE-THROUGH ACCOUNTS.—If the Secretary finds  
5 a jurisdiction outside of the United States, 1 or  
6 more financial institutions operating outside of the  
7 United States, or 1 or more classes of transactions  
8 within, or involving, a jurisdiction outside of the  
9 United States to be of primary money laundering  
10 concern, the Secretary may require any domestic fi-  
11 nancial institution or domestic financial agency that  
12 opens or maintains a payable-through account in the  
13 United States for a foreign financial institution in-  
14 volving any such jurisdiction or any such financial  
15 institution operating outside of the United States, or  
16 a payable through account through which any such  
17 transaction may be conducted, as a condition of  
18 opening or maintaining such account—

19 “(A) to identify each customer (and rep-  
20 resentative of such customer) of such financial  
21 institution who is permitted to use, or whose  
22 transactions are routed through, such payable-  
23 through account; and

24 “(B) to obtain, with respect to each such  
25 customer (and each such representative), infor-



1           mation that is substantially comparable to that  
2           which the depository institution obtains in the  
3           ordinary course of business with respect to its  
4           customers residing in the United States.

5           “(4) INFORMATION RELATING TO CERTAIN COR-  
6           RESPONDENT ACCOUNTS.—If the Secretary finds a  
7           jurisdiction outside of the United States, 1 or more  
8           financial institutions operating outside of the United  
9           States, or 1 or more classes of transactions within,  
10          or involving, a jurisdiction outside of the United  
11          States to be of primary money laundering concern,  
12          the Secretary may require any domestic financial in-  
13          stitution or domestic financial agency that opens or  
14          maintains a correspondent account in the United  
15          States for a foreign financial institution involving  
16          any such jurisdiction or any such financial institu-  
17          tion operating outside of the United States, or a cor-  
18          respondent account through which any such trans-  
19          action may be conducted, as a condition of opening  
20          or maintaining such account—

21                 “(A) to identify each customer (and rep-  
22                 resentative of such customer) of any such finan-  
23                 cial institution who is permitted to use, or  
24                 whose transactions are routed through, such  
25                 correspondent account; and

1           “(B) to obtain, with respect to each such  
2           customer (and each such representative), infor-  
3           mation that is substantially comparable to that  
4           which the depository institution obtains in the  
5           ordinary course of business with respect to its  
6           customers residing in the United States.

7           “(5) PROHIBITIONS OR CONDITIONS ON OPEN-  
8           ING OR MAINTAINING CERTAIN CORRESPONDENT OR  
9           PAYABLE-THROUGH ACCOUNTS.—If the Secretary  
10          finds a jurisdiction outside of the United States, 1  
11          or more financial institutions operating outside of  
12          the United States, or 1 or more classes of trans-  
13          actions within, or involving, a jurisdiction outside of  
14          the United States to be of primary money laun-  
15          dering concern, the Secretary, in consultation with  
16          the Secretary of State, the Attorney General, and  
17          the Chairman of the Board of Governors of the Fed-  
18          eral Reserve System, may prohibit, or impose condi-  
19          tions upon, the opening or maintaining in the United  
20          States of a correspondent account or payable-  
21          through account by any domestic financial institu-  
22          tion or domestic financial agency for or on behalf of  
23          a foreign banking institution, if such correspondent  
24          account or payable-through account involves any  
25          such jurisdiction or institution, or if any such trans-

1       action may be conducted through such cor-  
 2       respondent account or payable-through account.

3       “(c) CONSULTATIONS AND INFORMATION TO BE  
 4       CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,  
 5       TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-  
 6       MARY MONEY LAUNDERING CONCERN.—

7               “(1) IN GENERAL.—In making a finding that  
 8       reasonable grounds exist for concluding that a juris-  
 9       diction outside of the United States, 1 or more fi-  
 10      nancial institutions operating outside of the United  
 11      States, 1 or more classes of transactions within, or  
 12      involving, a jurisdiction outside of the United States,  
 13      or 1 or more types of accounts is of primary money  
 14      laundering concern so as to authorize the Secretary  
 15      to take 1 or more of the special measures described  
 16      in subsection (b), the Secretary shall consult with  
 17      the Secretary of State, and the Attorney General.

18              “(2) ADDITIONAL CONSIDERATIONS.—In mak-  
 19      ing a finding described in paragraph (1), the Sec-  
 20      retary shall consider in addition such information as  
 21      the Secretary determines to be relevant, including  
 22      the following potentially relevant factors:

23                      “(A) JURISDICTIONAL FACTORS.—In the  
 24                      case of a particular jurisdiction—

1 “(i) evidence that organized criminal  
2 groups, international terrorists, or both,  
3 have transacted business in that jurisdic-  
4 tion;

5 (ii) the extent to which that jurisdic-  
6 tion or financial institutions operating in  
7 that jurisdiction offer bank secrecy or spe-  
8 cial tax or regulatory advantages to non-  
9 residents or nondomiciliaries of that juris-  
10 diction;

11 “(iii) the substance and quality of ad-  
12 ministration of the bank supervisory and  
13 counter-money laundering laws of that ju-  
14 risdiction;

15 “(iv) the relationship between the vol-  
16 ume of financial transactions occurring in  
17 that jurisdiction and the size of the econ-  
18 omy of the jurisdiction;

19 “(v) the extent to which that jurisdic-  
20 tion is characterized as a tax haven or off-  
21 shore banking or secrecy haven by credible  
22 international organizations or multilateral  
23 expert groups;

24 “(vi) whether the United States has a  
25 mutual legal assistance treaty with that ju-

1 jurisdiction, and the experience of United  
2 States law enforcement officials, regulatory  
3 officials, and tax administrators in obtain-  
4 ing information about transactions origi-  
5 nating in or routed through or to such ju-  
6 risdiction; and

7 “(vii) the extent to which that juris-  
8 diction is characterized by high levels of of-  
9 ficial or institutional corruption.

10 “(B) INSTITUTIONAL FACTORS.—In the  
11 case of a decision to apply 1 or more of the spe-  
12 cial measures described in subsection (b) only  
13 to a financial institution or institutions, or to a  
14 transaction or class of transactions, or to a type  
15 of account, or to all 3, within or involving a  
16 particular jurisdiction—

17 “(i) the extent to which such financial  
18 institutions, transactions, or types of ac-  
19 counts are used to facilitate or promote  
20 money laundering in or through the juris-  
21 diction;

22 “(ii) the extent to which such institu-  
23 tions, transactions, or types of accounts  
24 are used for legitimate business purposes  
25 in the jurisdiction; and

1                   “(iii) the extent to which such action  
2                   is sufficient to ensure, with respect to  
3                   transactions involving the jurisdiction and  
4                   institutions operating in the jurisdiction,  
5                   that the purposes of this subchapter con-  
6                   tinue to be fulfilled, and to guard against  
7                   international money laundering and other  
8                   financial crimes.

9           “(d) NOTIFICATION OF SPECIAL MEASURES IN-  
10 VOKED BY THE SECRETARY.—Not later than 10 days  
11 after the date of any action taken by the Secretary under  
12 subsection (a)(1), the Secretary shall notify, in writing,  
13 the Committee on Financial Services of the House of Rep-  
14 resentatives and the Committee on Banking, Housing, and  
15 Urban Affairs of the Senate of any such action.

16           “(e) STUDY AND REPORT ON FOREIGN NATION-  
17 ALS.—

18                   “(1) STUDY.—The Secretary, in consultation  
19                   with the appropriate Federal agencies, including the  
20                   Federal banking agencies (as defined in section 3 of  
21                   the Federal Deposit Insurance Act), shall conduct a  
22                   study to—

23                           “(A) determine the most timely and effec-  
24                           tive way to require foreign nationals to provide  
25                           domestic financial institutions and agencies

1 with appropriate and accurate information,  
 2 comparable to that which is required of United  
 3 States nationals, concerning their identity, ad-  
 4 dress, and other related information necessary  
 5 to enable such institutions and agencies to com-  
 6 ply with the reporting, information gathering,  
 7 and other requirements of this section; and

8 “(B) consider the need for requiring for-  
 9 eign nationals to apply for and obtain an identi-  
 10 fication number, similar to what is required for  
 11 United States citizens through a social security  
 12 number or tax identification number, prior to  
 13 opening an account with a domestic financial  
 14 institution.

15 “(2) REPORT.—The Secretary shall report to  
 16 Congress not later than 180 days after the date of  
 17 enactment of this section with recommendations for  
 18 implementing such action referred to in paragraph  
 19 (1) in a timely and effective manner.

20 “(f) DEFINITIONS.—Notwithstanding any other pro-  
 21 vision of this subchapter, for purposes of this section, the  
 22 following definitions shall apply:

23 “(1) BANK DEFINITIONS.—The following defini-  
 24 tions shall apply with respect to a bank:

25 “(A) ACCOUNT.—The term ‘account’—

1 “(i) means a formal banking or busi-  
2 ness relationship established to provide  
3 regular services, dealings, and other finan-  
4 cial transactions; and

5 “(ii) includes a demand deposit, sav-  
6 ings deposit, or other transaction or asset  
7 account and a credit account or other ex-  
8 tension of credit.

9 “(B) CORRESPONDENT ACCOUNT.—The  
10 term ‘correspondent account’ means an account  
11 established to receive deposits from, make pay-  
12 ments on behalf of a foreign financial institu-  
13 tion, or handle other financial transactions re-  
14 lated to such institution.

15 “(C) PAYABLE-THROUGH ACCOUNT.—The  
16 term ‘payable-through account’ means an ac-  
17 count, including a transaction account (as de-  
18 fined in section 19(b)(1)(C) of the Federal Re-  
19 serve Act), opened at a depository institution by  
20 a foreign financial institution by means of  
21 which the foreign financial institution permits  
22 its customers to engage, either directly or  
23 through a subaccount, in banking activities  
24 usual in connection with the business of bank-  
25 ing in the United States.



1           “(2) DEFINITIONS APPLICABLE TO INSTITU-  
2           TIONS OTHER THAN BANKS.—With respect to any fi-  
3           nancial institution other than a bank, the Secretary  
4           shall, after consultation with the Securities and Ex-  
5           change Commission, define by regulation the term  
6           ‘account’, and shall include within the meaning of  
7           that term, to the extent, if any, that the Secretary  
8           deems appropriate, arrangements similar to payable-  
9           through and correspondent accounts.

10           “(3) REGULATORY DEFINITION.—The Sec-  
11           retary shall promulgate regulations defining bene-  
12           ficial ownership of an account for purposes of this  
13           section. Such regulations shall address issues related  
14           to an individual’s authority to fund, direct, or man-  
15           age the account (including, without limitation, the  
16           power to direct payments into or out of the ac-  
17           count), and an individual’s material interest in the  
18           income or corpus of the account, and shall ensure  
19           that the identification of individuals under this sec-  
20           tion does not extend to any individual whose bene-  
21           ficial interest in the income or corpus of the account  
22           is immaterial.”.

23           “(4) OTHER TERMS.—The Secretary may, by  
24           regulation, further define the terms in paragraphs  
25           (1) and (2) and define other terms for the purposes

1 of this section, as the Secretary deems appro-  
 2 priate.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
 4 for subchapter II of chapter 53 of title 31, United States  
 5 Code, is amended by inserting after the item relating to  
 6 section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or inter-  
 national transactions of primary money laundering concern.”.

7 **SEC. 102. SPECIAL DUE DILIGENCE FOR CORRESPONDENT**  
 8 **ACCOUNTS AND PRIVATE BANKING AC-**  
 9 **COUNTS.**

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

13 “(i) DUE DILIGENCE FOR UNITED STATES PRIVATE  
 14 BANKING AND CORRESPONDENT BANK ACCOUNTS IN-  
 15 VOLVING FOREIGN PERSONS.—

16 “(1) IN GENERAL.—Each financial institution  
 17 that establishes, maintains, administers, or manages  
 18 a private banking account or a correspondent ac-  
 19 count in the United States for a non-United States  
 20 person, including a foreign individual visiting the  
 21 United States, or a representative of a non-United  
 22 States person shall establish appropriate, specific,  
 23 and, where necessary, enhanced, due diligence poli-  
 24 cies, procedures, and controls to detect and report

1 instances of money laundering through those ac-  
 2 counts.

3 “(2) MINIMUM STANDARDS FOR COR-  
 4 RESPONDENT ACCOUNTS.—

5 “(A) IN GENERAL.—Subparagraph (B)  
 6 shall apply if a correspondent account is re-  
 7 quested or maintained by, or on behalf of, a  
 8 foreign bank operating—

9 “(i) under an offshore banking li-  
 10 cense; or

11 “(ii) under a banking license issued  
 12 by a foreign country that has been  
 13 designated—

14 “(I) as noncooperative with inter-  
 15 national anti-money laundering prin-  
 16 ciples or procedures by an intergov-  
 17 ernmental group or organization of  
 18 which the United States is a member;  
 19 or

20 “(II) by the Secretary as war-  
 21 ranting special measures due to  
 22 money laundering concerns.

23 “(B) POLICIES, PROCEDURES, AND CON-  
 24 TROLS.—The enhanced due diligence policies,  
 25 procedures, and controls required under para-

graph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps—

“(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

“(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under section 5318(g); and

“(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

“(3) MINIMUM STANDARDS FOR PRIVATE BANKING ACCOUNTS.—If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph

(1) shall, at a minimum, ensure that the financial institution takes reasonable steps—

“(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under section 5318(g); and

“(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, to prevent, detect, and report transactions that may involve the proceeds of foreign corruption.

“(4) DEFINITIONS AND REGULATORY AUTHORITY.—

“(A) OFFSHORE BANKING LICENSE.—For purposes of this subsection, the term ‘offshore banking license’ means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

1           “(B) REGULATORY AUTHORITY.—The Sec-  
 2           retary, in consultation with the appropriate  
 3           functional regulators of the affected financial  
 4           institutions, may further delineate, by regula-  
 5           tion the due diligence policies, procedures, and  
 6           controls required under paragraph (1).”.

7           (b) EFFECTIVE DATE.—The amendments made by  
 8           this section shall take effect beginning 180 days after the  
 9           date of enactment of this Act with respect to accounts cov-  
 10          ered by section 5318(i) of title 31, United States Code,  
 11          as added by this section, that are opened before, on, or  
 12          after the date of enactment of this Act.

13   **SEC. 103. PROHIBITION ON UNITED STATES COR-**  
 14                   **RESPONDENT ACCOUNTS WITH FOREIGN**  
 15                   **SHELL BANKS.**

16          (a) IN GENERAL.—Section 5318 of title 31, United  
 17          States Code, is amended by inserting after section 5318(i),  
 18          as added by section 102 of this Act, the following:

19          “(j) PROHIBITION ON UNITED STATES COR-  
 20          RESPONDENT ACCOUNTS WITH FOREIGN SHELL  
 21          BANKS.—

22               “(1) IN GENERAL.—A financial institution de-  
 23          scribed in subparagraphs (A) through (F) of section  
 24          5312(a)(2) (in this subsection referred to as a ‘cov-  
 25          ered financial institution’) shall not establish, main-

tain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

“(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS.—A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

“(3) EXCEPTION.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

“(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

1           “(B) is subject to supervision by a banking  
 2 authority in the country regulating the affili-  
 3 ated depository institution, credit union, or for-  
 4 eign bank described in subparagraph (A), as  
 5 applicable.

6           “(4) DEFINITIONS.—For purposes of this  
 7 subsection—

8           “(A) the term ‘affiliate’ means a foreign  
 9 bank that is controlled by or is under common  
 10 control with a depository institution, credit  
 11 union, or foreign bank; and

12           “(B) the term ‘physical presence’ means a  
 13 place of business that—

14           “(i) is maintained by a foreign bank;

15           “(ii) is located at a fixed address  
 16 (other than solely an electronic address) in  
 17 a country in which the foreign bank is au-  
 18 thorized to conduct banking activities, at  
 19 which location the foreign bank—

20           “(I) employs 1 or more individ-  
 21 uals on a full-time basis; and

22           “(II) maintains operating records  
 23 related to its banking activities; and



1 “(iii) is subject to inspection by the  
 2 banking authority which licensed the for-  
 3 eign bank to conduct banking activities.”.

4 **SEC. 104. COOPERATIVE EFFORTS TO DETER MONEY LAUN-**  
 5 **DERING.**

6 (a) COOPERATION AMONG FINANCIAL INSTITUTIONS,  
 7 REGULATORY AUTHORITIES, AND LAW ENFORCEMENT  
 8 AUTHORITIES.—

9 (1) REGULATIONS.—The Secretary shall, within  
 10 120 days after the date of enactment of this Act,  
 11 adopt regulations to encourage further cooperation  
 12 among financial institutions, their regulatory au-  
 13 thorities, and law enforcement authorities, with the  
 14 specific purpose of encouraging regulatory authori-  
 15 ties and law enforcement authorities to share with  
 16 financial institutions information regarding individ-  
 17 uals, entities, and organizations engaged in or rea-  
 18 sonably suspected based on credible evidence of en-  
 19 gaging in terrorist acts or money laundering activi-  
 20 ties.

21 (2) CONTENTS.—The regulations promulgated  
 22 pursuant to paragraph (1) may—

23 (A) require that each financial institution  
 24 designate 1 or more persons to receive informa-  
 25 tion concerning, and to monitor accounts of in-

1           dividuals, entities, and organizations identified,  
2           pursuant to paragraph (1); and

3           (B) further establish procedures for the  
4           protection of the shared information, consistent  
5           with the capacity, size, and nature of the insti-  
6           tution to which the particular procedures apply.

7           (3) RULE OF CONSTRUCTION.—The receipt of  
8           information by a financial institution pursuant to  
9           this section shall not relieve or otherwise modify the  
10          obligations of the financial institution with respect  
11          to any other person or account.

12          (4) USE OF INFORMATION.—Information re-  
13          ceived by a financial institution pursuant to this sec-  
14          tion shall not be used for any purpose other than  
15          identifying and reporting on activities that may in-  
16          volve terrorist acts or money laundering activities.

17          (b) COOPERATION AMONG FINANCIAL INSTITU-  
18          TIONS.—Upon notice provided to the Secretary, 2 or more  
19          financial institutions and any association of financial insti-  
20          tutions may share information with one another regarding  
21          individuals, entities, organizations, and countries sus-  
22          pected of possible terrorist or money laundering activities.  
23          A financial institution or association that transmits, re-  
24          ceives, or shares such information for the purposes of  
25          identifying and reporting activities that may involve ter-

1 rorist acts or money laundering activities shall not be lia-  
 2 ble to any person under any law or regulation of the  
 3 United States, any constitution, law, or regulation of any  
 4 State or political subdivision thereof, or under any con-  
 5 tract or other legally enforceable agreement (including any  
 6 arbitration agreement), for such disclosure or for any fail-  
 7 ure to provide notice of such disclosure to the person who  
 8 is the subject of such disclosure, or any other person iden-  
 9 tified in the disclosure, except where such transmission,  
 10 receipt, or sharing violates this section or regulations pro-  
 11 mulgated pursuant to this section.

12 (c) RULE OF CONSTRUCTION.—Compliance with the  
 13 provisions of this Act requiring or allowing financial insti-  
 14 tutions and any association of financial institutions to dis-  
 15 close or share information regarding individuals, entities,  
 16 and organizations engaged in or suspected of engaging in  
 17 terrorist acts or money laundering activities shall not con-  
 18 stitute a violation of the provisions of title V of the  
 19 Gramm-Leach-Bliley Act (Public Law 106–102).

20 **SEC. 105. INCLUSION OF FOREIGN CORRUPTION OFFENSES**  
 21 **AS MONEY LAUNDERING CRIMES.**

22 Section 1956(c)(7)(B) of title 18, United States  
 23 Code, is amended—

24 (1) in clause (ii), by striking “or destruction of  
 25 property by means of explosive or fire” and inserting

1 “destruction of property by means of explosive or  
2 fire, or a crime of violence (as defined in section  
3 16)”;

4 (2) in clause (iii), by striking “1978” and in-  
5 serting “1978”); and

6 (3) by adding at the end the following:

7 “(iv) bribery of a public official, or  
8 the misappropriation, theft, or embezzle-  
9 ment of public funds by or for the benefit  
10 of a public official;

11 “(v) smuggling or export control viola-  
12 tions involving—

13 “(I) an item controlled on the  
14 United States Munitions List estab-  
15 lished under section 38 of the Arms  
16 Export Control Act (22 U.S.C. 2778);  
17 or

18 “(II) an item controlled under  
19 regulations under the Export Admin-  
20 istration Act of 1977 (15 C.F.R.  
21 Parts 730–774);

22 “(vi) an offense with respect to which  
23 the United States would be obligated by a  
24 multilateral treaty, either to extradite the  
25 alleged offender or to submit the case for

1 prosecution, if the offender were found  
2 within the territory of the United States;  
3 or

4 “(vii) the misuse of funds of, or pro-  
5 vided by, the International Monetary Fund  
6 in contravention of the Articles of Agree-  
7 ment of the Fund or the misuse of funds  
8 of, or provided by, any other international  
9 financial institution (as defined in section  
10 1701(c)(2) of the International Financial  
11 Institutions Act (22 U.S.C. 262r(c)(2)) in  
12 contravention of any treaty or other inter-  
13 national agreement to which the United  
14 States is a party, including any articles of  
15 agreement of the members of the inter-  
16 national financial institution;”.

17 **SEC. 106. ANTI-TERRORIST FORFEITURE PROTECTION.**

18 (a) RIGHT TO CONTEST.—An owner of property that  
19 is confiscated under any provision of law relating to the  
20 confiscation of assets of suspected international terrorists,  
21 may contest that confiscation by filing a claim in the man-  
22 ner set forth in the Federal Rules of Civil Procedure (Sup-  
23 plemental Rules for Certain Admiralty and Maritime  
24 Claims), and asserting as an affirmative defense that—

1           (1) the property is not subject to confiscation  
2           under such provision of law; or

3           (2) the innocent owner provisions of section  
4           983(d) of title 18, United States Code, apply to the  
5           case.

6           (b) EVIDENCE.—In considering a claim filed under  
7 this section, the Government may rely on evidence that  
8 is otherwise inadmissible under the Federal Rules of Evi-  
9 dence, if a court determines that such reliance is necessary  
10 to protect the national security interests of the United  
11 States.

12          (c) OTHER REMEDIES.—Nothing in this section shall  
13 limit or otherwise affect any other remedies that may be  
14 available to an owner of property under section 983 of  
15 title 18, United States Code, or any other provision of law.

16 **SEC. 107. LONG-ARM JURISDICTION OVER FOREIGN MONEY**  
17 **LAUNDERERS.**

18          Section 1956(b) of title 18, United States Code, is  
19 amended—

20           (1) by redesignating paragraphs (1) and (2) as  
21           subparagraphs (A) and (B), respectively, and mov-  
22           ing the margins 2 ems to the right;

23           (2) by inserting after “(b)” the following:  
24           “PENALTIES.—

25           “(1) IN GENERAL.—”;

1           (3) by inserting “, or section 1957” after “or  
2           (a)(3)”; and

3           (4) by adding at the end the following:

4           “(2) JURISDICTION OVER FOREIGN PERSONS.—

5           For purposes of adjudicating an action filed or en-  
6           forcing a penalty ordered under this section, the dis-  
7           trict courts shall have jurisdiction over any foreign  
8           person, including any financial institution authorized  
9           under the laws of a foreign country, against whom  
10          the action is brought, if service of process upon the  
11          foreign person is made under the Federal Rules of  
12          Civil Procedure or the laws of the country in which  
13          the foreign person is found, and—

14                 “(A) the foreign person commits an offense  
15                 under subsection (a) involving a financial trans-  
16                 action that occurs in whole or in part in the  
17                 United States;

18                 “(B) the foreign person converts, to his or  
19                 her own use, property in which the United  
20                 States has an ownership interest by virtue of  
21                 the entry of an order of forfeiture by a court  
22                 of the United States; or

23                 “(C) the foreign person is a financial insti-  
24                 tution that maintains a bank account at a fi-  
25                 nancial institution in the United States.

1           “(3) COURT AUTHORITY OVER ASSETS.—A  
2       court described in paragraph (2) may issue a pre-  
3       trial restraining order or take any other action nec-  
4       essary to ensure that any bank account or other  
5       property held by the defendant in the United States  
6       is available to satisfy a judgment under this section.

7           “(4) FEDERAL RECEIVER.—

8               “(A) IN GENERAL.—A court described in  
9       paragraph (2) may appoint a Federal Receiver,  
10      in accordance with subparagraph (B) of this  
11      paragraph, to collect, marshal, and take cus-  
12      tody, control, and possession of all assets of the  
13      defendant, wherever located, to satisfy a judg-  
14      ment under this section or section 981, 982, or  
15      1957, including an order of restitution to any  
16      victim of a specified unlawful activity.

17           “(B) APPOINTMENT AND AUTHORITY.—A  
18      Federal Receiver described in subparagraph  
19      (A)—

20               “(i) may be appointed upon applica-  
21      tion of a Federal prosecutor or a Federal  
22      or State regulator, by the court having ju-  
23      risdiction over the defendant in the case;

24               “(ii) shall be an officer of the court,  
25      and the powers of the Federal Receiver



shall include the powers set out in section  
754 of title 28, United States Code; and

“(iii) shall have standing equivalent to  
that of a Federal prosecutor for the pur-  
pose of submitting requests to obtain infor-  
mation regarding the assets of the  
defendant—

“(I) from the Financial Crimes  
Enforcement Network of the Depart-  
ment of the Treasury; or

“(II) from a foreign country pur-  
suant to a mutual legal assistance  
treaty, multilateral agreement, or  
other arrangement for international  
law enforcement assistance, provided  
that such requests are in accordance  
with the policies and procedures of the  
Attorney General.”.

**SEC. 108. LAUNDERING MONEY THROUGH A FOREIGN  
BANK.**

Section 1956(c) of title 18, United States Code, is  
amended by striking paragraph (6) and inserting the fol-  
lowing:

“(6) the term ‘financial institution’ includes—

1           “(A) any financial institution, as defined in  
 2           section 5312(a)(2) of title 31, United States  
 3           Code, or the regulations promulgated there-  
 4           under; and

5           “(B) any foreign bank, as defined in sec-  
 6           tion 1 of the International Banking Act of 1978  
 7           (12 U.S.C. 3101).”.

8   **SEC. 109. FORFEITURE OF FUNDS IN UNITED STATES**  
 9           **INTERBANK ACCOUNTS.**

10       (a) **FORFEITURE FROM UNITED STATES INTERBANK**  
 11   **ACCOUNT.**—Section 981 of title 18, United States Code,  
 12   is amended by adding at the end the following:

13       “(k) **INTERBANK ACCOUNTS.**—

14       “(1) **IN GENERAL.**—

15           “(A) **IN GENERAL.**—For the purpose of a  
 16       forfeiture under this section or under the Con-  
 17       trolled Substances Act (21 U.S.C. 801 et seq.),  
 18       if funds are deposited into an account at a for-  
 19       eign bank, and that foreign bank has an inter-  
 20       bank account in the United States with a cov-  
 21       ered financial institution (as defined in section  
 22       5318A of title 31), the funds shall be deemed  
 23       to have been deposited into the interbank ac-  
 24       count in the United States, and any restraining  
 25       order, seizure warrant, or arrest warrant in rem

1           regarding the funds may be served on the cov-  
2           ered financial institution, and funds in the  
3           interbank account, up to the value of the funds  
4           deposited into the account at the foreign bank,  
5           may be restrained, seized, or arrested.

6           “(B) AUTHORITY TO SUSPEND.—The At-  
7           torney General, in consultation with the Sec-  
8           retary, may suspend or terminate a forfeiture  
9           under this section if the Attorney General de-  
10          termines that a conflict of law exists between  
11          the laws of the jurisdiction in which the foreign  
12          bank is located and the laws of the United  
13          States with respect to liabilities arising from  
14          the restraint, seizure, or arrest of such funds,  
15          and that such suspension or termination would  
16          be in the interest of justice and would not harm  
17          the national interests of the United States.

18          “(2) NO REQUIREMENT FOR GOVERNMENT TO  
19          TRACE FUNDS.—If a forfeiture action is brought  
20          against funds that are restrained, seized, or arrested  
21          under paragraph (1), it shall not be necessary for  
22          the Government to establish that the funds are di-  
23          rectly traceable to the funds that were deposited into  
24          the foreign bank, nor shall it be necessary for the

1 Government to rely on the application of section  
2 984.

3 “(3) CLAIMS BROUGHT BY OWNER OF THE  
4 FUNDS.—If a forfeiture action is instituted against  
5 funds restrained, seized, or arrested under para-  
6 graph (1), the owner of the funds deposited into the  
7 account at the foreign bank may contest the for-  
8 feiture by filing a claim under section 983.

9 “(4) DEFINITIONS.—For purposes of this sub-  
10 section, the following definitions shall apply:

11 “(A) INTERBANK ACCOUNT.—The term  
12 ‘interbank account’ has the same meaning as in  
13 section 984(c)(2)(B).

14 “(B) OWNER.—

15 “(i) IN GENERAL.—Except as pro-  
16 vided in clause (ii), the term ‘owner’—

17 “(I) means the person who was  
18 the owner, as that term is defined in  
19 section 983(d)(6), of the funds that  
20 were deposited into the foreign bank  
21 at the time such funds were deposited;  
22 and

23 “(II) does not include either the  
24 foreign bank or any financial institu-  
25 tion acting as an intermediary in the

1 transfer of the funds into the inter-  
 2 bank account.

3 “(ii) EXCEPTION.—The foreign bank  
 4 may be considered the ‘owner’ of the funds  
 5 (and no other person shall qualify as the  
 6 owner of such funds) only if—

7 “(I) the basis for the forfeiture  
 8 action is wrongdoing committed by  
 9 the foreign bank; or

10 “(II) the foreign bank estab-  
 11 lishes, by a preponderance of the evi-  
 12 dence, that prior to the restraint, sei-  
 13 zure, or arrest of the funds, the for-  
 14 eign bank had discharged all or part  
 15 of its obligation to the prior owner of  
 16 the funds, in which case the foreign  
 17 bank shall be deemed the owner of the  
 18 funds to the extent of such discharged  
 19 obligation.”.

20 (b) BANK RECORDS.—Section 5318 of title 31,  
 21 United States Code, is amended by adding at the end the  
 22 following:

23 “(k) BANK RECORDS RELATED TO ANTI-MONEY  
 24 LAUNDERING PROGRAMS.—

1           “(1) DEFINITIONS.—For purposes of this sub-  
2           section, the following definitions shall apply:

3                   “(A) APPROPRIATE FEDERAL BANKING  
4           AGENCY.—The term ‘appropriate Federal bank-  
5           ing agency’ has the same meaning as in section  
6           3 of the Federal Deposit Insurance Act (12  
7           U.S.C. 1813).

8                   “(B) INCORPORATED TERMS.—The terms  
9           ‘correspondent account’, ‘covered financial insti-  
10          tution’, and ‘foreign bank’ have the same mean-  
11          ings as in section 5318A.

12           “(2) 120-HOUR RULE.—Not later than 120  
13          hours after receiving a request by an appropriate  
14          Federal banking agency for information related to  
15          anti-money laundering compliance by a covered fi-  
16          nancial institution or a customer of such institution,  
17          a covered financial institution shall provide to the  
18          appropriate Federal banking agency, or make avail-  
19          able at a location specified by the representative of  
20          the appropriate Federal banking agency, information  
21          and account documentation for any account opened,  
22          maintained, administered or managed in the United  
23          States by the covered financial institution.

24           “(3) FOREIGN BANK RECORDS.—

1           “(A) SUMMONS OR SUBPOENA OF  
2 RECORDS.—

3           “(i) IN GENERAL.—The Secretary or  
4 the Attorney General may issue a sum-  
5 mons or subpoena to any foreign bank that  
6 maintains a correspondent account in the  
7 United States and request records related  
8 to such correspondent account, including  
9 records maintained outside of the United  
10 States relating to the deposit of funds into  
11 the foreign bank.

12           “(ii) SERVICE OF SUMMONS OR SUB-  
13 POENA.—A summons or subpoena referred  
14 to in clause (i) may be served on the for-  
15 eign bank in the United States if the for-  
16 eign bank has a representative in the  
17 United States, or in a foreign country pur-  
18 suant to any mutual legal assistance trea-  
19 ty, multilateral agreement, or other request  
20 for international law enforcement assist-  
21 ance.

22           “(B) ACCEPTANCE OF SERVICE.—

23           “(i) MAINTAINING RECORDS IN THE  
24 UNITED STATES.—Any covered financial  
25 institution which maintains a cor-

1           respondent account in the United States  
 2           for a foreign bank shall maintain records  
 3           in the United States identifying the owners  
 4           of such foreign bank and the name and ad-  
 5           dress of a person who resides in the United  
 6           States and is authorized to accept service  
 7           of legal process for records regarding the  
 8           correspondent account.

9           “(ii) LAW ENFORCEMENT REQUEST.—

10          Upon receipt of a written request from a  
 11          Federal law enforcement officer for infor-  
 12          mation required to be maintained under  
 13          this paragraph, the covered financial insti-  
 14          tution shall provide the information to the  
 15          requesting officer not later than 7 days  
 16          after receipt of the request.

17          “(C) TERMINATION OF CORRESPONDENT  
 18          RELATIONSHIP.—

19          “(i) TERMINATION UPON RECEIPT OF  
 20          NOTICE.—A covered financial institution  
 21          shall terminate any correspondent relation-  
 22          ship with a foreign bank not later than 10  
 23          business days after receipt of written no-  
 24          tice from the Secretary or the Attorney  
 25          General that the foreign bank has failed—



1 “(I) to comply with a summons  
2 or subpoena issued under subpara-  
3 graph (A); or

4 “(II) to initiate proceedings in a  
5 United States court contesting such  
6 summons or subpoena.

7 “(ii) LIMITATION ON LIABILITY.—A  
8 covered financial institution shall not be  
9 liable to any person in any court or arbi-  
10 tration proceeding for terminating a cor-  
11 respondent relationship in accordance with  
12 this subsection.

13 “(iii) FAILURE TO TERMINATE RELA-  
14 TIONSHIP.—Failure to terminate a cor-  
15 respondent relationship in accordance with  
16 this subsection shall render the covered fi-  
17 nancial institution liable for a civil penalty  
18 of up to \$10,000 per day until the cor-  
19 respondent relationship is so terminated.”.

20 (c) GRACE PERIOD.—Financial institutions affected  
21 by section 5333 of title 31 United States Code, as amend-  
22 ed by this Act, shall have 60 days from the date of enact-  
23 ment of this Act to comply with the provisions of that sec-  
24 tion.

1       (d) REQUESTS FOR RECORDS.—Section 3486(a)(1)  
 2 of title 18, United States Code, is amended by striking  
 3 “, or (II) a Federal offense involving the sexual exploi-  
 4 tation or abuse of children” and inserting “, (II) a Federal  
 5 offense involving the sexual exploitation or abuse of chil-  
 6 dren, or (III) money laundering, in violation of section  
 7 1956, 1957, or 1960 of this title”.

8       (e) AUTHORITY TO ORDER CONVICTED CRIMINAL TO  
 9 RETURN PROPERTY LOCATED ABROAD.—

10           (1) FORFEITURE OF SUBSTITUTE PROPERTY.—

11       Section 413(p) of the Controlled Substances Act (21  
 12 U.S.C. 853) is amended to read as follows:

13       “(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

14           “(1) IN GENERAL.—Paragraph (2) of this sub-  
 15 section shall apply, if any property described in sub-  
 16 section (a), as a result of any act or omission of the  
 17 defendant—

18                   “(A) cannot be located upon the exercise of  
 19 due diligence;

20                   “(B) has been transferred or sold to, or  
 21 deposited with, a third party;

22                   “(C) has been placed beyond the jurisdic-  
 23 tion of the court;

24                   “(D) has been substantially diminished in  
 25 value; or

1           “(E) has been commingled with other  
2           property which cannot be divided without dif-  
3           ficulty.

4           “(2) SUBSTITUTE PROPERTY.—In any case de-  
5           scribed in any of subparagraphs (A) through (E) of  
6           paragraph (1), the court shall order the forfeiture of  
7           any other property of the defendant, up to the value  
8           of any property described in subparagraphs (A)  
9           through (E) of paragraph (1), as applicable.

10          “(3) RETURN OF PROPERTY TO JURISDIC-  
11          TION.—In the case of property described in para-  
12          graph (1)(C), the court may, in addition to any  
13          other action authorized by this subsection, order the  
14          defendant to return the property to the jurisdiction  
15          of the court so that the property may be seized and  
16          forfeited.”.

17          (2) PROTECTIVE ORDERS.—Section 413(e) of  
18          the Controlled Substances Act (21 U.S.C. 853(e)) is  
19          amended by adding at the end the following:

20          “(4) ORDER TO REPATRIATE AND DEPOSIT.—

21                 “(A) IN GENERAL.—Pursuant to its au-  
22                 thority to enter a pretrial restraining order  
23                 under this section, including its authority to re-  
24                 strain any property forfeitable as substitute as-  
25                 sets, the court may order a defendant to repa-

1 triate any property that may be seized and for-  
 2 feited, and to deposit that property pending  
 3 trial in the registry of the court, or with the  
 4 United States Marshals Service or the Sec-  
 5 retary of the Treasury, in an interest-bearing  
 6 account, if appropriate.

7 “(B) FAILURE TO COMPLY.—Failure to  
 8 comply with an order under this subsection, or  
 9 an order to repatriate property under sub-  
 10 section (p), shall be punishable as a civil or  
 11 criminal contempt of court, and may also result  
 12 in an enhancement of the sentence of the de-  
 13 fendant under the obstruction of justice provi-  
 14 sion of the Federal Sentencing Guidelines.”.

15 **SEC. 110. PROCEEDS OF FOREIGN CRIMES.**

16 Section 981(a)(1)(B) of title 18, United States Code,  
 17 is amended to read as follows:

18 “(B) Any property, real or personal, within the  
 19 jurisdiction of the United States, constituting, de-  
 20 rived from, or traceable to, any proceeds obtained di-  
 21 rectly or indirectly from an offense against a foreign  
 22 nation, or any property used to facilitate such an of-  
 23 fense, if the offense—

24 “(i) involves the manufacture, importation,  
 25 sale, or distribution of a controlled substance

(as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);

“(ii) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and

“(iii) would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.”.

**SEC. 111. EXCLUSION OF ALIENS INVOLVED IN MONEY LAUNDERING.**

Section 212(a)(2) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

“(I) MONEY LAUNDERING ACTIVITIES.—

Any alien who the consular officer or the Attorney General knows or has reason to believe is or has been engaged in activities which, if engaged in within the United States would constitute a violation of section 1956 or 1957 of title 18, United States Code, or has been a knowing assister, abettor, conspirator, or

1           colluder with others in any such illicit activity  
2           is inadmissible.”.

3 **SEC. 112. CORPORATION REPRESENTED BY A FUGITIVE.**

4       Section 2466 of title 18, United States Code, is  
5 amended by designating the present matter as subsection  
6 (a), and adding at the end the following:

7       “(b) Subsection (a) may be applied to a claim filed  
8 by a corporation if any majority shareholder, or individual  
9 filing the claim on behalf of the corporation is a person  
10 to whom subsection (a) applies.”.

11 **SEC. 113. ENFORCEMENT OF FOREIGN JUDGMENTS.**

12       Section 2467 of title 28, United States Code, is  
13 amended—

14           (1) in subsection (d), by adding the following  
15 after paragraph (2):

16           “(3) PRESERVATION OF PROPERTY.—To pre-  
17 serve the availability of property subject to a foreign  
18 forfeiture or confiscation judgment, the Government  
19 may apply for, and the court may issue, a restrain-  
20 ing order pursuant to section 983(j) of title 18,  
21 United States Code, at any time before or after an  
22 application is filed pursuant to subsection (c)(1).

23       The court, in issuing the restraining order—

24           “(A) may rely on information set forth in  
25 an affidavit describing the nature of the pro-

1           ceeding investigation underway in the foreign  
2           country, and setting forth a reasonable basis to  
3           believe that the property to be restrained will be  
4           named in a judgment of forfeiture at the con-  
5           clusion of such proceeding; or

6                   “(B) may register and enforce a restrain-  
7           ing order has been issued by a court of com-  
8           petent jurisdiction in the foreign country and  
9           certified by the Attorney General pursuant to  
10          subsection (b)(2).

11       No person may object to the restraining order on  
12       any ground that is the subject to parallel litigation  
13       involving the same property that is pending in a for-  
14       eign court.”;

15               (2) in subsection (b)(1)(C), by striking “estab-  
16       lishing that the defendant received notice of the pro-  
17       ceedings in sufficient time to enable the defendant”  
18       and inserting “establishing that the foreign nation  
19       took steps, in accordance with the principles of due  
20       process, to give notice of the proceedings to all per-  
21       sons with an interest in the property in sufficient  
22       time to enable such persons”;

23               (3) in subsection (d)(1)(D), by striking “the de-  
24       fendant in the proceedings in the foreign court did  
25       not receive notice” and inserting “the foreign nation

1        did not take steps, in accordance with the principles  
 2        of due process, to give notice of the proceedings to  
 3        a person with an interest in the property”; and

4            (4) in subsection (a)(2)(A), by inserting “, any  
 5        violation of foreign law that would constitute a viola-  
 6        tion of an offense for which property could be for-  
 7        feited under Federal law if the offense were com-  
 8        mitted in the United States” after “United Nations  
 9        Convention”.

10 **SEC. 114. INCREASE IN CIVIL AND CRIMINAL PENALTIES**  
 11 **FOR MONEY LAUNDERING.**

12        (a) CIVIL PENALTIES.—Section 5321(a) of title 31,  
 13 United States Code, is amended by adding at the end the  
 14 following:

15            “(7) PENALTIES FOR INTERNATIONAL  
 16 COUNTER MONEY LAUNDERING VIOLATIONS.—The  
 17 Secretary may impose a civil money penalty in an  
 18 amount equal to not less than 2 times the amount  
 19 of the transaction, but not more than \$1,000,000,  
 20 on any financial institution or agency that violates  
 21 any provision of subsection (i) or (j) of section 5318  
 22 or any special measures imposed under section  
 23 5318A.”.



1 (b) CRIMINAL PENALTIES.—Section 5322 of title 31,  
2 United States Code, is amended by adding at the end the  
3 following:

4 “(d) A financial institution or agency that violates  
5 any provision of subsection (i) or (j) of section 5318, or  
6 any special measures imposed under section 5318A, or any  
7 regulation prescribed under subsection (i) or (j) of section  
8 5318 or section 5318A, shall be fined in an amount equal  
9 to not less than 2 times the amount of the transaction,  
10 but not more than \$1,000,000.”.

11 **SEC. 115. REPORT AND RECOMMENDATION.**

12 Not later than 30 months after the date of enactment  
13 of this Act, the Secretary, in consultation with the Attor-  
14 ney General, the Federal banking agencies (as defined at  
15 section 3 of the Federal Deposit Insurance Act), the Secu-  
16 rities and Exchange Commission, and such other agencies  
17 as the Secretary may determine, at the discretion of the  
18 Secretary, shall evaluate the operations of the provisions  
19 of this title and make recommendations to Congress as  
20 to any legislative action with respect to this title as the  
21 Secretary may determine to be necessary or advisable.

22 **SEC. 116. REPORT ON EFFECTIVENESS.**

23 The Secretary shall report annually on measures  
24 taken pursuant to this title, and shall submit the report  
25 to the Committee on Banking, Housing, and Urban Af-

1 fairs of the Senate and to the Committee on Financial  
 2 Services of the House of Representatives.

3 **SEC. 117. CONCENTRATION ACCOUNTS AT FINANCIAL IN-**  
 4 **STITUTIONS.**

5 Section 5318(h) of title 31, United States Code, as  
 6 amended by section 202 of this Act, is amended by adding  
 7 at the end the following:

8 “(3) CONCENTRATION ACCOUNTS.—The Sec-  
 9 retary may issue regulations under this subsection  
 10 that govern maintenance of concentration accounts  
 11 by financial institutions, in order to ensure that such  
 12 accounts are not used to prevent association of the  
 13 identity of an individual customer with the move-  
 14 ment of funds of which the customer is the direct or  
 15 beneficial owner, which regulations shall, at a  
 16 minimum—

17 “(A) prohibit financial institutions from al-  
 18 lowing clients to direct transactions that move  
 19 their funds into, out of, or through the con-  
 20 centration accounts of the financial institution;

21 “(B) prohibit financial institutions and  
 22 their employees from informing customers of  
 23 the existence of, or the means of identifying,  
 24 the concentration accounts of the institution;  
 25 and

“(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.”.

## **TITLE II—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS**

### **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.**

(a) AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

“(3) LIABILITY FOR DISCLOSURES.—

“(A) IN GENERAL.—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such

1 institution who makes, or requires another to  
2 make any such disclosure, shall not be liable to  
3 any person under any law or regulation of the  
4 United States, any constitution, law, or regula-  
5 tion of any State or political subdivision of any  
6 State, or under any contract or other legally en-  
7 forceable agreement (including any arbitration  
8 agreement), for such disclosure or for any fail-  
9 ure to provide notice of such disclosure to the  
10 person who is the subject of such disclosure or  
11 any other person identified in the disclosure.

12 “(B) RULE OF CONSTRUCTION.—Subpara-  
13 graph (A) shall not be construed as creating—

14 “(i) any inference that the term ‘per-  
15 son’, as used in such subparagraph, may  
16 be construed more broadly than its ordi-  
17 nary usage so as to include any govern-  
18 ment or agency of government; or

19 “(ii) any immunity against, or other-  
20 wise affecting, any civil or criminal action  
21 brought by any government or agency of  
22 government to enforce any constitution,  
23 law, or regulation of such government or  
24 agency.”.

1       (b) PROHIBITION ON NOTIFICATION OF DISCLO-  
2 SURES.—Section 5318(g)(2) of title 31, United States  
3 Code, is amended to read as follows:

4               “(2) NOTIFICATION PROHIBITED.—

5               “(A) IN GENERAL.—If a financial institu-  
6 tion or any director, officer, employee, or agent  
7 of any financial institution, voluntarily or pur-  
8 suant to this section or any other authority, re-  
9 ports a suspicious transaction to a government  
10 agency—

11               “(i) the financial institution, director,  
12 officer, employee, or agent may not notify  
13 any person involved in the transaction that  
14 the transaction has been reported; and

15               “(ii) no officer or employee of the  
16 Federal Government or of any State, local,  
17 tribal, or territorial government within the  
18 United States, who has any knowledge that  
19 such report was made may disclose to any  
20 person involved in the transaction that the  
21 transaction has been reported, other than  
22 as necessary to fulfill the official duties of  
23 such officer or employee.

24               “(B) DISCLOSURES IN CERTAIN EMPLOY-  
25               MENT REFERENCES.—

1           “(i) RULE OF CONSTRUCTION.—Not-  
2           withstanding the application of subpara-  
3           graph (A) in any other context, subpara-  
4           graph (A) shall not be construed as prohib-  
5           iting any financial institution, or any direc-  
6           tor, officer, employee, or agent of such in-  
7           stitution, from including information that  
8           was included in a report to which subpara-  
9           graph (A) applies—

10           “(I) in a written employment ref-  
11           erence that is provided in accordance  
12           with section 18(v) of the Federal De-  
13           posit Insurance Act in response to a  
14           request from another financial institu-  
15           tion, except that such written ref-  
16           erence may not disclose that such in-  
17           formation was also included in any  
18           such report or that such report was  
19           made; or

20           “(II) in a written termination no-  
21           tice or employment reference that is  
22           provided in accordance with the rules  
23           of the self-regulatory organizations  
24           registered with the Securities and Ex-  
25           change Commission, except that such

1                   written notice or reference may not  
2                   disclose that such information was  
3                   also included in any such report or  
4                   that such report was made.

5                   “(ii) INFORMATION NOT REQUIRED.—  
6                   Clause (i) shall not be construed, by itself,  
7                   to create any affirmative duty to include  
8                   any information described in clause (i) in  
9                   any employment reference or termination  
10                  notice referred to in clause (i).”.

11 **SEC. 202. ANTI-MONEY LAUNDERING PROGRAMS.**

12                  Section 5318(h) of title 31, United States Code, is  
13                  amended to read as follows:

14                  “(h) ANTI-MONEY LAUNDERING PROGRAMS.—

15                         “(1) IN GENERAL.—In order to guard against  
16                         money laundering through financial institutions,  
17                         each financial institution shall establish anti-money  
18                         laundering programs, including, at a minimum—

19                                 “(A) the development of internal policies,  
20                                 procedures, and controls;

21                                 “(B) the designation of a compliance offi-  
22                                 cer;

23                                 “(C) an ongoing employee training pro-  
24                                 gram; and

1           “(D) an independent audit function to test  
2           programs.

3           “(2) REGULATIONS.—The Secretary may pre-  
4           scribe minimum standards for programs established  
5           under paragraph (1), and may exempt from the ap-  
6           plication of those standards any financial institution  
7           that is not subject to the provisions of the rules con-  
8           tained in part 103 of title 31, of the Code of Federal  
9           Regulations, or any successor rule thereto, for so  
10          long as such financial institution is not subject to  
11          the provisions of such rules.”.

12 **SEC. 203. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**  
13 **TARGETING ORDERS AND CERTAIN RECORD-**  
14 **KEEPING REQUIREMENTS, AND LENGTH-**  
15 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**  
16 **TARGETING ORDERS.**

17          (a) CIVIL PENALTY FOR VIOLATION OF TARGETING  
18 ORDER.—Section 5321(a)(1) of title 31, United States  
19 Code, is amended—

20           (1) by inserting “or order issued” after “sub-  
21          chapter or a regulation prescribed”; and

22           (2) by inserting “, or willfully violating a regu-  
23          lation prescribed under section 21 of the Federal  
24          Deposit Insurance Act or section 123 of Public Law  
25          91–508,” after “sections 5314 and 5315)”.



1 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-  
2 GETING ORDER.—Section 5322 of title 31, United States  
3 Code, is amended—

4 (1) in subsection (a)—

5 (A) by inserting “or order issued” after  
6 “willfully violating this subchapter or a regula-  
7 tion prescribed”; and

8 (B) by inserting “, or willfully violating a  
9 regulation prescribed under section 21 of the  
10 Federal Deposit Insurance Act or section 123  
11 of Public Law 91–508,” after “under section  
12 5315 or 5324”); and

13 (2) in subsection (b)—

14 (A) by inserting “or order issued” after  
15 “willfully violating this subchapter or a regula-  
16 tion prescribed”; and

17 (B) by inserting “or willfully violating a  
18 regulation prescribed under section 21 of the  
19 Federal Deposit Insurance Act or section 123  
20 of Public Law 91–508,” after “under section  
21 5315 or 5324),”.

22 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-  
23 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-  
24 MENTS.—Section 5324(a) of title 31, United States Code,  
25 is amended—

1 (1) by inserting a comma after “shall”;

2 (2) by striking “section—” and inserting “sec-  
3 tion, the reporting or recordkeeping requirements  
4 imposed by any order issued under section 5326, or  
5 the recordkeeping requirements imposed by any reg-  
6 ulation prescribed under section 21 of the Federal  
7 Deposit Insurance Act or section 123 of Public Law  
8 91-508—”;

9 (3) in paragraph (1), by inserting “, to file a  
10 report or to maintain a record required by an order  
11 issued under section 5326, or to maintain a record  
12 required pursuant to any regulation prescribed  
13 under section 21 of the Federal Deposit Insurance  
14 Act or section 123 of Public Law 91-508” after  
15 “regulation prescribed under any such section”; and

16 (4) in paragraph (2), by inserting “, to file a  
17 report or to maintain a record required by any order  
18 issued under section 5326, or to maintain a record  
19 required pursuant to any regulation prescribed  
20 under section 5326, or to maintain a record required  
21 pursuant to any regulation prescribed under section  
22 21 of the Federal Deposit Insurance Act or section  
23 123 of Public Law 91-508,” after “regulation pre-  
24 scribed under any such section”.

1 (d) LENGTHENING EFFECTIVE PERIOD OF GEO-  
 2 GRAPHIC TARGETING ORDERS.—Section 5326(d) of title  
 3 31, United States Code, is amended by striking “more  
 4 than 60” and inserting “more than 180”.

5 **SEC. 204. ANTI-MONEY LAUNDERING STRATEGY.**

6 (a) STRATEGY.—Section 5341(b) of title 31, United  
 7 States Code, is amended by adding at the end the fol-  
 8 lowing:

9 “(12) DATA REGARDING FUNDING OF TER-  
 10 RORISM.—Data concerning money laundering efforts  
 11 related to the funding of acts of international ter-  
 12 rorism, and efforts directed at the prevention, detec-  
 13 tion, and prosecution of such funding.”.

14 **SEC. 205. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**  
 15 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**  
 16 **REFERENCES.**

17 Section 18 of the Federal Deposit Insurance Act (12  
 18 U.S.C. 1828) is amended by adding at the end the fol-  
 19 lowing:

20 “(v) WRITTEN EMPLOYMENT REFERENCES MAY  
 21 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-  
 22 TIVITY.—

23 “(1) AUTHORITY TO DISCLOSE INFORMA-  
 24 TION.—Notwithstanding any other provision of law,  
 25 any insured depository institution, and any director,

1 officer, employee, or agent of such institution, may  
2 disclose in any written employment reference relat-  
3 ing to a current or former institution-affiliated party  
4 of such institution which is provided to another in-  
5 sured depository institution in response to a request  
6 from such other institution, information concerning  
7 the possible involvement of such institution-affiliated  
8 party in potentially unlawful activity.

9 “(2) INFORMATION NOT REQUIRED.—Nothing  
10 in paragraph (1) shall be construed, by itself, to cre-  
11 ate any affirmative duty to include any information  
12 described in paragraph (1) in any employment ref-  
13 erence referred to in paragraph (1).

14 “(3) MALICIOUS INTENT.—Notwithstanding  
15 any other provision of this subsection, voluntary dis-  
16 closure made by an insured depository institution,  
17 and any director, officer, employee, or agent of such  
18 institution under this subsection concerning poten-  
19 tially unlawful activity that is made with malicious  
20 intent or otherwise, shall not be shielded from liabil-  
21 ity from the person identified in the disclosure.

22 “(4) DEFINITION.—For purposes of this sub-  
23 section, the term ‘insured depository institution’ in-  
24 cludes any uninsured branch or agency of a foreign  
25 bank.”.

1 **SEC. 206. BANK SECRECY ACT ADVISORY GROUP.**

2 Section 1564 of the Annunzio-Wylie Anti-Money  
3 Laundering Act (31 U.S.C. 5311 note) is amended—

4 (1) in subsection (a), by inserting “, of non-  
5 governmental organizations advocating financial pri-  
6 vacy,” after “Drug Control Policy”; and

7 (2) in subsection (c), by inserting “, other than  
8 subsections (a) and (d) of such Act which shall  
9 apply” before the period at the end.

10 **SEC. 207. AGENCY REPORTS ON RECONCILING PENALTY**  
11 **AMOUNTS.**

12 Not later than 1 year after the date of enactment  
13 of this Act, the Secretary of the Treasury and the Federal  
14 banking agencies (as defined in section 3 of the Federal  
15 Deposit Insurance Act (12 U.S.C. 1813)) shall each sub-  
16 mit their respective reports to the Congress containing  
17 recommendations on possible legislation to conform the  
18 penalties imposed on depository institutions (as defined in  
19 section 3 of the Federal Deposit Insurance Act) for viola-  
20 tions of subchapter II of chapter 53 of title 31, United  
21 States Code, to the penalties imposed on such institutions  
22 under section 8 of the Federal Deposit Insurance Act (12  
23 U.S.C. 1818).

1 **SEC. 208. REPORTING OF SUSPICIOUS ACTIVITIES BY SECU-**  
2 **RITIES BROKERS AND DEALERS; INVEST-**  
3 **MENT COMPANY STUDY.**

4 (a) 270-DAY REGULATION DEADLINE.—Not later  
5 than 270 days after the date of enactment of this Act,  
6 the Secretary of the Treasury, after consultation with the  
7 Securities and Exchange Commission and the Board of  
8 Governors of the Federal Reserve System, shall issue final  
9 regulations requiring registered brokers and dealers to file  
10 reports of suspicious financial transactions, consistent  
11 with the requirements applicable to financial institutions,  
12 and directors, officers, employees, and agents of financial  
13 institutions under section 5318(g) of title 31, United  
14 States Code.

15 (b) REPORT ON INVESTMENT COMPANIES.—

16 (1) IN GENERAL.—Not later than 1 year after  
17 the date of enactment of this Act, Secretary of the  
18 Treasury, the Board of Governors of the Federal  
19 Reserve System, and the Securities and Exchange  
20 Commission shall jointly submit a report to Con-  
21 gress on recommendations for effective regulations  
22 to apply the requirements of subchapter II of chap-  
23 ter 53 of title 31, United States Code, to investment  
24 companies, pursuant to section 5312(a)(2)(I) of title  
25 31, United States Code.

1           (2) DEFINITION.—For purposes of this section,  
2     the term “investment company”—

3           (A) has the same meaning as in section 3  
4     of the Investment Company Act of 1940 (15  
5     U.S.C. 80a–3); and

6           (B) any person that, but for the exceptions  
7     provided for in paragraph (1) or (7) of section  
8     3(c) of the Investment Company Act of 1940  
9     (15 U.S.C. 80a–3(c)), would be an investment  
10    company.

11          (3) ADDITIONAL RECOMMENDATIONS.—In its  
12    report, the Securities and Exchange Commission  
13    may make different recommendations for different  
14    types of entities covered by this section.

15          (4) BENEFICIAL OWNERSHIP OF PERSONAL  
16    HOLDING COMPANIES.—The report described in  
17    paragraph (1) shall also include recommendations as  
18    to whether the Secretary should promulgate regula-  
19    tions to treat any corporation or business or other  
20    grantor trust whose assets are predominantly securi-  
21    ties, bank certificates of deposit, or other securities  
22    or investment instruments (other than such as relate  
23    to operating subsidiaries of such corporation or  
24    trust) and that has 5 or fewer common shareholders  
25    or holders of beneficial or other equity interest, as

1 a financial institution within the meaning of that  
 2 phrase in section 5312(a)(2)(I) and whether to re-  
 3 quire such corporations or trusts to disclose their  
 4 beneficial owners when opening accounts or initi-  
 5 ating funds transfers at any domestic financial insti-  
 6 tution.

7 **SEC. 209. SPECIAL REPORT ON ADMINISTRATION OF BANK**  
 8 **SECRECY PROVISIONS.**

9 (a) REPORT REQUIRED.—Not later than 6 months  
 10 after the date of enactment of this Act, the Secretary shall  
 11 submit a report to the Congress relating to the role of  
 12 the Internal Revenue Service in the administration of sub-  
 13 chapter II of chapter 53 of title 31, United States Code  
 14 (commonly known as the “Bank Secrecy Act”).

15 (b) CONTENTS.—The report required by subsection  
 16 (a)—

17 (1) shall specifically address, and contain rec-  
 18 ommendations concerning—

19 (A) whether it is advisable to shift the  
 20 processing of information reporting to the De-  
 21 partment of the Treasury under the Bank Se-  
 22 crecy Act provisions to facilities other than  
 23 those managed by the Internal Revenue Service;  
 24 and



(B) whether it remains reasonable and efficient, in light of the objective of both anti-money-laundering programs and Federal tax administration, for the Internal Revenue Service to retain authority and responsibility for audit and examination of the compliance of money services businesses and gaming institutions with those Bank Secrecy Act provisions; and

(2) shall, if the Secretary determines that the information processing responsibility or the audit and examination responsibility of the Internal Revenue Service, or both, with respect to those Bank Secrecy Act provisions should be transferred to other agencies, include the specific recommendations of the Secretary regarding the agency or agencies to which any such function should be transferred, complete with a budgetary and resources plan for expeditiously accomplishing the transfer.

**SEC. 210. BANK SECRECY PROVISIONS AND ANTI-TERRORIST ACTIVITIES OF UNITED STATES INTELLIGENCE AGENCIES.**

(a) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT.—Section 5311 of title 31, United States Code, is amended by inserting before the

1 period at the end the following: “, or in the conduct of  
 2 intelligence or counterintelligence activities, including  
 3 analysis, to protect against international terrorism”.

4 (b) AMENDMENT RELATING TO REPORTING OF SUS-  
 5 PICIOUS ACTIVITIES.—Section 5318(g)(4)(B) of title 31,  
 6 United States Code, is amended by striking “or super-  
 7 visory agency” and inserting “, supervisory agency, or  
 8 United States intelligence agency for use in the conduct  
 9 of intelligence or counterintelligence activities, including  
 10 analysis, to protect against international terrorism”.

11 (c) AMENDMENT RELATING TO AVAILABILITY OF  
 12 REPORTS.—Section 5319 of title 31, United States Code,  
 13 is amended to read as follows:

14 **“§ 5319. Availability of reports**

15 “The Secretary of the Treasury shall make informa-  
 16 tion in a report filed under this subchapter available to  
 17 an agency, including any State financial institutions su-  
 18 pervisory agency or United States intelligence agency,  
 19 upon request of the head of the agency. The report shall  
 20 be available for a purpose that is consistent with this sub-  
 21 chapter. The Secretary may only require reports on the  
 22 use of such information by any State financial institutions  
 23 supervisory agency for other than supervisory purposes or  
 24 by United States intelligence agencies. However, a report

1 and records of reports are exempt from disclosure under  
2 section 552 of title 5.”.

3 (d) AMENDMENT RELATING TO THE PURPOSES OF  
4 THE BANK SECRECY ACT PROVISIONS.—Section 21(a) of  
5 the Federal Deposit Insurance Act (12 U.S.C. 1829b(a))  
6 is amended to read as follows:

7 “(a) CONGRESSIONAL FINDINGS AND DECLARATION  
8 OF PURPOSE.—

9 “(1) FINDINGS.—Congress finds that—

10 “(A) adequate records maintained by in-  
11 sured depository institutions have a high degree  
12 of usefulness in criminal, tax, and regulatory  
13 investigations or proceedings, and that, given  
14 the threat posed to the security of the Nation  
15 on and after the terrorist attacks against the  
16 United States on September 11, 2001, such  
17 records may also have a high degree of useful-  
18 ness in the conduct of intelligence or counter-  
19 intelligence activities, including analysis, to pro-  
20 tect against domestic and international ter-  
21 rorism; and

22 “(B) microfilm or other reproductions and  
23 other records made by insured depository insti-  
24 tutions of checks, as well as records kept by  
25 such institutions, of the identity of persons

1 maintaining or authorized to act with respect  
2 to accounts therein, have been of particular  
3 value in proceedings described in subparagraph  
4 (A).

5 “(2) PURPOSE.—It is the purpose of this sec-  
6 tion to require the maintenance of appropriate types  
7 of records by insured depository institutions in the  
8 United States where such records have a high degree  
9 of usefulness in criminal, tax, or regulatory inves-  
10 tigation or proceedings, recognizes that, given the  
11 threat posed to the security of the Nation on and  
12 after the terrorist attacks against the United States  
13 on September 11, 2001, such records may also have  
14 a high degree of usefulness in the conduct of intel-  
15 ligence or counterintelligence activities, including  
16 analysis, to protect against international terrorism.”.

17 (e) AMENDMENT RELATING TO THE PURPOSES OF  
18 THE BANK SECRECY ACT.—Section 123(a) of Public Law  
19 91–508 (12 U.S.C. 1953(a)) is amended to read as fol-  
20 lows:

21 “(a) REGULATIONS.—If the Secretary determines  
22 that the maintenance of appropriate records and proce-  
23 dures by any uninsured bank or uninsured institution, or  
24 any person engaging in the business of carrying on in the  
25 United States any of the functions referred to in sub-

1 section (b), has a high degree of usefulness in criminal,  
 2 tax, or regulatory investigations or proceedings, and that,  
 3 given the threat posed to the security of the Nation on  
 4 and after the terrorist attacks against the United States  
 5 on September 11, 2001, such records may also have a high  
 6 degree of usefulness in the conduct of intelligence or coun-  
 7 terintelligence activities, including analysis, to protect  
 8 against international terrorism, he may by regulation re-  
 9 quire such bank, institution, or person.”.

10 (f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-  
 11 VACY ACT.—The Right to Financial Privacy Act of 1978  
 12 is amended—

13 (1) in section 1112(a) (12 U.S.C. 3412(a)), by  
 14 inserting “, or intelligence or counterintelligence ac-  
 15 tivity, investigation or analysis related to inter-  
 16 national terrorism” after “legitimate law enforce-  
 17 ment inquiry”; and

18 (2) in section 1114(a)(1) (12 U.S.C.  
 19 3414(a)(1))—

20 (A) in subparagraph (A), by striking “or”  
 21 at the end;

22 (B) in subparagraph (B), by striking the  
 23 period at the end and inserting “; or”; and

24 (C) by adding at the end the following:

1           “(C) a Government authority authorized to  
 2           conduct investigations of, or intelligence or  
 3           counterintelligence analyses related to, inter-  
 4           national terrorism for the purpose of con-  
 5           ducting such investigations or analyses.”.

6           (g) AMENDMENT TO THE FAIR CREDIT REPORTING  
 7   ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681  
 8   et seq.) is amended by adding at the end the following  
 9   new section:

10   **“SEC. 626. DISCLOSURES TO GOVERNMENTAL AGENCIES**  
 11           **FOR COUNTERTERRORISM PURPOSES.**

12           “(a) DISCLOSURE.—Notwithstanding section 604 or  
 13   any other provision of this title, a consumer reporting  
 14   agency shall furnish a consumer report of a consumer and  
 15   all other information in a consumer’s file to a government  
 16   agency authorized to conduct investigations of, or intel-  
 17   ligence or counterintelligence activities or analysis related  
 18   to, international terrorism when presented with a written  
 19   certification by such government agency that such infor-  
 20   mation is necessary for the agency’s conduct or such inves-  
 21   tigation, activity or analysis.

22           “(b) FORM OF CERTIFICATION.—The certification  
 23   described in subsection (a) shall be signed by the Sec-  
 24   retary of the Treasury.

1       “(c) CONFIDENTIALITY.—No consumer reporting  
2 agency, or officer, employee, or agent of such consumer  
3 reporting agency, shall disclose to any person, or specify  
4 in any consumer report, that a government agency has  
5 sought or obtained access to information under subsection  
6 (a).

7       “(d) RULE OF CONSTRUCTION.—Nothing in section  
8 625 shall be construed to limit the authority of the Direc-  
9 tor of the Federal Bureau of Investigation under this sec-  
10 tion.

11       “(e) SAFE HARBOR.—Notwithstanding any other  
12 provision of this subchapter, any consumer reporting  
13 agency or agent or employee thereof making disclosure of  
14 consumer reports or other information pursuant to this  
15 section in good-faith reliance upon a certification of a gov-  
16 ernmental agency pursuant to the provisions of this sec-  
17 tion shall not be liable to any person for such disclosure  
18 under this subchapter, the constitution of any State, or  
19 any law or regulation of any State or any political subdivi-  
20 sion of any State.”.

1 **SEC. 211. REPORTING OF SUSPICIOUS ACTIVITIES BY**  
2 **HAWALA AND OTHER UNDERGROUND BANK-**  
3 **ING SYSTEMS.**

4 (a) DEFINITION FOR SUBCHAPTER.—Section  
5 5312(a)(2)(R) of title 31, United States Code, is amended  
6 to read as follows:

7 “(R) a licensed sender of money or any  
8 other person who engages as a business in the  
9 transmission of funds, including through an in-  
10 formal value transfer banking system or net-  
11 work of people facilitating the transfer of value  
12 domestically or internationally outside of the  
13 conventional financial institutions system;”.

14 (b) MONEY TRANSMITTING BUSINESS.—Section  
15 5330(d)(1)(A) of title 31, United States Code, is amended  
16 by inserting before the semicolon the following: “or any  
17 other person who engages as a business in the trans-  
18 mission of funds, including through an informal value  
19 transfer banking system or network of people facilitating  
20 the transfer of value domestically or internationally out-  
21 side of the conventional financial institutions system;”.

22 (c) APPLICABILITY OF RULES.—Section 5318 of title  
23 31, United States Code, as amended by this Act, is  
24 amended by adding at the end the following:

25 “(l) APPLICABILITY OF RULES.—Any rules promul-  
26 gated pursuant to the authority contained in section 21



1 of the Federal Deposit Insurance Act (12 U.S.C. 1829b)  
 2 shall apply, in addition to any other financial institution  
 3 to which such rules apply, to any person that engages as  
 4 a business in the transmission of funds, including through  
 5 an informal value transfer banking system or network of  
 6 people facilitating the transfer of value domestically or  
 7 internationally outside of the conventional financial insti-  
 8 tutions system.”.

9 (d) REPORT.—Not later than 1 year after the date  
 10 of enactment of this Act, the Secretary of the Treasury  
 11 shall report to Congress on the need for any additional  
 12 legislation relating to informal value transfer banking sys-  
 13 tems or networks of people facilitating the transfer of  
 14 value domestically or internationally outside of the conven-  
 15 tional financial institutions system, counter money laun-  
 16 dering and regulatory controls relating to underground  
 17 money movement and banking systems, such as the system  
 18 referred to as ‘hawala’, including whether the threshold  
 19 for the filing of suspicious activity reports under section  
 20 5318(g) of title 31, United States Code should be lowered  
 21 in the case of such systems.

22 **SEC. 212. USE OF AUTHORITY OF UNITED STATES EXECU-**  
 23 **TIVE DIRECTORS.**

24 (a) ACTION BY THE PRESIDENT.—If the President  
 25 determines that a particular foreign country has taken or

1 has committed to take actions that contribute to efforts  
 2 of the United States to respond to, deter, or prevent acts  
 3 of international terrorism, the Secretary of the Treasury  
 4 may, consistent with other applicable provisions of law, in-  
 5 struct the United States Executive Director of each inter-  
 6 national financial institution to use the voice and vote of  
 7 the Executive Director to support any loan or other utili-  
 8 zation of the funds of respective institutions for such coun-  
 9 try, or any public or private entity within such country.

10 (b) USE OF VOICE AND VOTE.—The Secretary of the  
 11 Treasury may instruct the United States Executive Direc-  
 12 tor of each international financial institution to aggres-  
 13 sively use the voice and vote of the Executive Director to  
 14 require an auditing of disbursements at such institutions  
 15 to ensure that no funds are paid to persons who commit,  
 16 threaten to commit, or support terrorism.

17 (c) DEFINITION.—For purposes of this section, the  
 18 term “international financial institution” means an insti-  
 19 tution described in section 1701(c)(2) of the International  
 20 Financial Institutions Act (22 U.S.C. 262r(c)(2)).

## 21 **TITLE III—CURRENCY CRIMES**

### 22 **SEC. 301. BULK CASH SMUGGLING.**

23 (a) FINDINGS.—Congress finds that—

24 (1) effective enforcement of the currency re-  
 25 porting requirements of chapter 53 of title 31,

1 United States Code (commonly referred to as the  
2 Bank Secrecy Act), and the regulations promulgated  
3 thereunder, has forced drug dealers and other crimi-  
4 nals engaged in cash-based businesses to avoid using  
5 traditional financial institutions;

6 (2) in their effort to avoid using traditional fi-  
7 nancial institutions, drug dealers, and other crimi-  
8 nals are forced to move large quantities of currency  
9 in bulk form to and through the airports, border  
10 crossings, and other ports of entry where it can be  
11 smuggled out of the United States and placed in a  
12 foreign financial institution or sold on the black  
13 market;

14 (3) the transportation and smuggling of cash in  
15 bulk form may, at the time of enactment of this Act,  
16 be the most common form of money laundering, and  
17 the movement of large sums of cash is one of the  
18 most reliable warning signs of drug trafficking, ter-  
19 rorism, money laundering, racketeering, tax evasion,  
20 and similar crimes;

21 (4) the intentional transportation into or out of  
22 the United States of large amounts of currency or  
23 monetary instruments, in a manner designed to cir-  
24 cumvent the mandatory reporting provisions of chap-  
25 ter 53 of title 31, United States Code, is the equiva-

1       lent of, and creates the same harm as, the smug-  
2       gling of goods;

3           (5) the arrest and prosecution of bulk cash  
4       smugglers is an important part of law enforcement's  
5       effort to stop the laundering of criminal proceeds,  
6       but the couriers who attempt to smuggle the cash  
7       out of the United States are typically low-level em-  
8       ployees of large criminal organizations, and are eas-  
9       ily replaced, and therefore only the confiscation of  
10      the smuggled bulk cash can effectively break the  
11      cycle of criminal activity of which the laundering of  
12      bulk cash is a critical part;

13          (6) the penalties for violations of the currency  
14      reporting requirements of the chapter 53 of title 31,  
15      United States Code, are insufficient to provide a de-  
16      terrent to the laundering of criminal proceeds;

17          (7) because the only criminal violation under  
18      Federal law before the date of enactment of this Act  
19      was a reporting offense, the law does not adequately  
20      provide for the confiscation of smuggled currency;  
21      and

22          (8) if the smuggling of bulk cash were itself an  
23      offense, the cash could be confiscated as the corpus  
24      delicti of the smuggling offense.

25      (b) PURPOSES.—The purposes of this section are—

1           (1) to make the act of smuggling bulk cash  
2           itself a criminal offense;

3           (2) to authorize forfeiture of any cash or instru-  
4           ments of the smuggling offense;

5           (3) to emphasize the seriousness of the act of  
6           bulk cash smuggling; and

7           (4) to prescribe guidelines for determining the  
8           amount of property subject to such forfeiture in var-  
9           ious situations.

10          (c) BULK CASH SMUGGLING OFFENSE.—

11           (1) IN GENERAL.—Subchapter II of chapter 53  
12          of title 31, United States Code, is amended by add-  
13          ing at the end the following:

14          **“§ 5331. Bulk cash smuggling**

15          “(a) CRIMINAL OFFENSE.—

16           “(1) IN GENERAL.—Whoever, with the intent to  
17          evade a currency reporting requirement under sec-  
18          tion 5316, knowingly conceals more than \$10,000 in  
19          currency or other monetary instruments on his or  
20          her person or in any conveyance, article of luggage,  
21          merchandise, or other container, and transports or  
22          transfers or attempts to transport or transfer the  
23          currency or monetary instruments from a place with-  
24          in the United States to a place outside of the United  
25          States, or from a place outside of the United States

1 to a place within the United States, shall be guilty  
2 of a currency smuggling offense and subject to pun-  
3 ishment under subsection (b).

4 “(b) PENALTIES.—

5 “(1) PRISON TERM.—A person convicted of a  
6 currency smuggling offense under subsection (a), or  
7 a conspiracy to commit such an offense, shall be im-  
8 prisoned for not more than 5 years.

9 “(2) FORFEITURE.—

10 “(A) IN GENERAL.—In addition to a pris-  
11 on term under paragraph (1), the court, in im-  
12 posing sentence, shall order that the defendant  
13 forfeit to the United States any property, real  
14 or personal, involved in the offense, and any  
15 property traceable to such property, subject to  
16 subsection (d).

17 “(B) APPLICABILITY OF OTHER LAWS.—

18 The seizure, restraint, and forfeiture of prop-  
19 erty under this section shall be governed by sec-  
20 tion 413 of the Controlled Substances Act (21  
21 U.S.C. 853). If the property subject to for-  
22 feiture is unavailable, and the defendant has no  
23 substitute property that may be forfeited pursu-  
24 ant to section 413(p) of that Act, the court  
25 shall enter a personal money judgment against

1           the defendant in an amount equal to the value  
2           of the unavailable property.

3           “(c) SEIZURE OF SMUGGLING CASH.—

4           “(1) IN GENERAL.—Any property involved in a  
5           violation of subsection (a), or a conspiracy to com-  
6           mit such violation, and any property traceable there-  
7           to, may be seized and, subject to subsection (d), for-  
8           feited to the United States.

9           “(2) APPLICABLE PROCEDURES.—A seizure and  
10          forfeiture under this subsection shall be governed by  
11          the procedures governing civil forfeitures under sec-  
12          tion 981(a)(1)(A) of title 18, United States Code.

13          “(d) PROPORTIONALITY OF FORFEITURE.—

14          “(1) MITIGATION.—Upon a showing by the  
15          property owner by a preponderance of the evidence  
16          that the currency or monetary instruments involved  
17          in the offense giving rise to the forfeiture were de-  
18          rived from a legitimate source and were intended for  
19          a lawful purpose, the court shall reduce the for-  
20          feiture to the maximum amount that is not grossly  
21          disproportional to the gravity of the offense.

22          “(2) CONSIDERATIONS.—In determining the  
23          amount of the forfeiture under paragraph (1), the  
24          court shall consider all aggravating and mitigating

1 facts and circumstances that have a bearing on the  
 2 gravity of the offense, including—

3 “(A) the value of the currency or other  
 4 monetary instruments involved in the offense;

5 “(B) efforts by the person committing the  
 6 offense to structure currency transactions, con-  
 7 ceal property, or otherwise obstruct justice; and

8 “(C) whether the offense is part of a pat-  
 9 tern of repeated violations of Federal law.

10 “(e) RULE OF CONSTRUCTION.—For purposes of  
 11 subsections (b) and (c), any currency or other monetary  
 12 instrument that is concealed or intended to be concealed  
 13 in violation of subsection (a) or a conspiracy to commit  
 14 such violation, any article, container, or conveyance used  
 15 or intended to be used to conceal or transport the currency  
 16 or other monetary instrument, and any other property  
 17 used or intended to be used to facilitate the offense, shall  
 18 be considered property involved in the offense.”.

19 (2) CLERICAL AMENDMENT.—The table of sections  
 20 for chapter 53 of title 31, United States Code, is amended  
 21 by inserting after the item relating to section 5330 the  
 22 following new item:

“5331. Bulk cash smuggling.”.

23 (d) CURRENCY REPORTING VIOLATIONS.—Section  
 24 5317(c) of title 31, United States Code, is amended to  
 25 read as follows:



1 “(c) FORFEITURE OF PROPERTY.—

2 “(1) IN GENERAL.—

3 “(A) CRIMINAL FORFEITURE.—The court,  
4 in imposing sentence for any violation of section  
5 5313, 5316, or 5324, or any conspiracy to com-  
6 mit such violation, shall order the defendant to  
7 forfeit all property, real or personal, involved in  
8 the offense and any property traceable thereto.

9 “(B) APPLICABLE PROCEDURES.—Forfeit-  
10 ures under this paragraph shall be governed by  
11 the procedures set forth in section 413 of the  
12 Controlled Substances Act (21 U.S.C. 853),  
13 and the guidelines set forth in paragraph (3) of  
14 this subsection.

15 “(2) CIVIL FORFEITURE.—Any property in-  
16 volved in a violation of section 5313, 5316, or 5324,  
17 or any conspiracy to commit such violation, and any  
18 property traceable thereto, may be seized and, sub-  
19 ject to paragraph (3), forfeited to the United States  
20 in accordance with the procedures governing civil  
21 forfeitures in money laundering cases pursuant to  
22 section 981(a)(1)(A) of title 18, United States Code.

23 “(3) MITIGATION.—In a forfeiture case under  
24 this subsection, upon a showing by the property  
25 owner by a preponderance of the evidence that any

1 currency or monetary instruments involved in the of-  
2 fense giving rise to the forfeiture were derived from  
3 a legitimate source, and were intended for a lawful  
4 purpose, the court shall reduce the forfeiture to the  
5 maximum amount that is not grossly disproportional  
6 to the gravity of the offense. In determining the  
7 amount of the forfeiture, the court shall consider all  
8 aggravating and mitigating facts and circumstances  
9 that have a bearing on the gravity of the offense.  
10 Such circumstances include, but are not limited to,  
11 the following: the value of the currency or other  
12 monetary instruments involved in the offense; efforts  
13 by the person committing the offense to structure  
14 currency transactions, conceal property, or otherwise  
15 obstruct justice; and whether the offense is part of  
16 a pattern of repeated violations.”.

17 (e) CONFORMING AMENDMENTS.—Title 18, United  
18 States Code, is amended—

19 (1) in section 981(a)(1)(A) by striking “of sec-  
20 tion 5313(a) or 5324(a) of title 31, or”; and

21 (2) in section 982(a)(1), striking “of section  
22 5313(a), 5316, or 5324 of title 31, or”.

## **TITLE IV—ANTICORRUPTION MEASURES**

### **SEC. 401. CORRUPTION OF FOREIGN GOVERNMENTS AND RULING ELITES.**

It is the sense of Congress that, in deliberations between the United States Government and any other country on money laundering and corruption issues, the United States Government should—

(1) emphasize an approach that addresses not only the laundering of the proceeds of traditional criminal activity but also the increasingly endemic problem of governmental corruption and the corruption of ruling elites;

(2) encourage the enactment and enforcement of laws in such country to prevent money laundering and systemic corruption;

(3) make clear that the United States will take all steps necessary to identify the proceeds of foreign government corruption which have been deposited in United States financial institutions and return such proceeds to the citizens of the country to whom such assets belong; and

(4) advance policies and measures to promote good government and to prevent and reduce corruption and money laundering, including through in-

1 instructions to the United States Executive Director of  
 2 each international financial institution (as defined in  
 3 section 1701(c) of the International Financial Insti-  
 4 tutions Act) to advocate such policies as a system-  
 5 atic element of economic reform programs and ad-  
 6 vice to member governments.

7 **SEC. 402. SUPPORT FOR THE FINANCIAL ACTION TASK**  
 8 **FORCE ON MONEY LAUNDERING.**

9 It is the sense of Congress that—

10 (1) the United States should continue to ac-  
 11 tively and publicly support the objectives of the Fi-  
 12 nancial Action Task Force on Money Laundering  
 13 (hereafter in this section referred to as the  
 14 “FATF”) with regard to combating international  
 15 money laundering;

16 (2) the FATF should identify noncooperative  
 17 jurisdictions in as expeditious a manner as possible  
 18 and publicly release a list directly naming those ju-  
 19 risdictions identified;

20 (3) the United States should support the public  
 21 release of the list naming noncooperative jurisdic-  
 22 tions identified by the FATF;

23 (4) the United States should encourage the  
 24 adoption of the necessary international action to en-

1       courage compliance by the identified noncooperative  
2       jurisdictions; and

3           (5) the United States should take the necessary  
4       countermeasures to protect the United States econ-  
5       omy against money of unlawful origin and encourage  
6       other nations to do the same.

7   **SEC. 403. TERRORIST FUNDING THROUGH MONEY LAUN-**  
8           **DERING.**

9       It is the sense of the Congress that, in deliberations  
10     and negotiations between the United States Government  
11     and any other country regarding financial, economic, as-  
12     sistance, or defense issues, the United States should en-  
13     courage such other country—

14           (1) to take actions which would identify and  
15     prevent the transmittal of funds to and from terror-  
16     ists and terrorist organizations; and

17           (2) to engage in bilateral and multilateral co-  
18     operation with the United States and other countries  
19     to identify suspected terrorists, terrorist organiza-  
20     tions, and persons supplying funds to and receiving  
21     funds from terrorists and terrorist organizations.

**Calendar No. 185**

107TH CONGRESS  
1ST SESSION

**S. 1511**

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**A BILL**

To combat international money laundering, thwart the financing of terrorism, and protect the United States financial system, and for other purposes.

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OCTOBER 9, 2001

Read twice and placed on the calendar