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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.

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

A BILL

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

See. 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;

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;

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—

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;

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-

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.

“(2) INFORMATION RELATING TO BENEFICIAL OWNERSHIP.—In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the 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 jurisdiction;
4

5 (ii) the extent to which that jurisdiction
6 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 jurisdiction
20 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

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—

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 financial
4 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 appropriate.”.

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 international 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-

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

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

10 “(ii) to conduct enhanced scrutiny of
11 such account to guard against money laun-
12 dering and report any suspicious trans-
13 actions under section 5318(g); and

14 “(iii) to ascertain whether such for-
15 eign bank provides correspondent accounts
16 to other foreign banks and, if so, the iden-
17 tity of those foreign banks and related due
18 diligence information, as appropriate under
19 paragraph (1).

20 “(3) MINIMUM STANDARDS FOR PRIVATE BANK-
21 ING ACCOUNTS.—If a private banking account is re-
22 quested or maintained by, or on behalf of, a non-
23 United States person, then the due diligence policies,
24 procedures, and controls required under paragraph

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

3 “(A) to ascertain the identity of the nomi-
4 nal and beneficial owners of, and the source of
5 funds deposited into, such account as needed to
6 guard against money laundering and report any
7 suspicious transactions under section 5318(g);
8 and

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

16 “(4) DEFINITIONS AND REGULATORY AUTHOR-
17 ITY.—

18 “(A) OFFSHORE BANKING LICENSE.—For
19 purposes of this subsection, the term ‘offshore
20 banking license’ means a license to conduct
21 banking activities which, as a condition of the
22 license, prohibits the licensed entity from con-
23 ducting banking activities with the citizens of,
24 or with the local currency of, the country which
25 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-

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

5 “(2) PREVENTION OF INDIRECT SERVICE TO
6 FOREIGN SHELL BANKS.—A covered financial insti-
7 tution shall take reasonable steps to ensure that any
8 correspondent account established, maintained, ad-
9 ministered, or managed by that covered financial in-
10 stitution in the United States for a foreign bank is
11 not being used by that foreign bank to indirectly
12 provide banking services to another foreign bank
13 that does not have a physical presence in any coun-
14 try. The Secretary shall, by regulation, delineate the
15 reasonable steps necessary to comply with this para-
16 graph.

17 “(3) EXCEPTION.—Paragraphs (1) and (2) do
18 not prohibit a covered financial institution from pro-
19 viding a correspondent account to a foreign bank, if
20 the foreign bank—

21 “(A) is an affiliate of a depository institu-
22 tion, credit union, or foreign bank that main-
23 tains a physical presence in the United States
24 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

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—

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;

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:

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

1 shall include the powers set out in section
2 754 of title 28, United States Code; and

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

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

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

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

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

24 “(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 FUND.—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.

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.

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

1 “(I) to comply with a summons
2 or subpoena issued under subparagraph
3 (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 arbitra-
10 tion 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

1 (as that term is defined for purposes of the
2 Controlled Substances Act), or any other con-
3 duct described in section 1956(c)(7)(B);

4 “(ii) would be punishable within the juris-
5 diction of the foreign nation by death or impris-
6 onment for a term exceeding 1 year; and

7 “(iii) would be punishable under the laws
8 of the United States by imprisonment for a
9 term exceeding 1 year, if the act or activity con-
10 stituting the offense had occurred within the ju-
11 risdiction of the United States.”.

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

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

17 “(I) MONEY LAUNDERING ACTIVITIES.—
18 Any alien who the consular officer or the Attor-
19 ney General knows or has reason to believe is
20 or has been engaged in activities which, if en-
21 gaged in within the United States would con-
22 stitute a violation of section 1956 or 1957 of
23 title 18, United States Code, or has been a
24 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 Attorney
14 General, the Federal banking agencies (as defined at
15 section 3 of the Federal Deposit Insurance Act), the Securities
16 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

1 “(C) require each financial institution to
2 establish written procedures governing the doc-
3 umentation of all transactions involving a con-
4 centration account, which procedures shall en-
5 sure that, any time a transaction involving a
6 concentration account commingles funds belong-
7 ing to 1 or more customers, the identity of, and
8 specific amount belonging to, each customer is
9 documented.”.

10 **TITLE II—CURRENCY TRANS-**
11 **ACTION REPORTING AMEND-**
12 **MENTS AND RELATED IM-**
13 **PROVEMENTS**

14 **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUS-**
15 **PICIOUS ACTIVITIES.**

16 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
17 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
18 31, United States Code, is amended to read as follows:

19 “(3) LIABILITY FOR DISCLOSURES.—

20 “(A) IN GENERAL.—Any financial institu-
21 tion that makes a voluntary disclosure of any
22 possible violation of law or regulation to a gov-
23 ernment agency or makes a disclosure pursuant
24 to this subsection or any other authority, and
25 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 subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies—

10 “(I) in a written employment reference that is provided in accordance with section 18(v) of the Federal Deposit Insurance Act in response to a request from another financial institution, except that such written reference may not disclose that such information was also included in any such report or that such report was made; or

20 “(II) in a written termination notice or employment reference that is provided in accordance with the rules of the self-regulatory organizations registered with the Securities and Exchange Commission, except that such

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;

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 (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 INFORMATION.—Notwithstanding any other provision of law,
24 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.

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

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

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

1 (B) whether it remains reasonable and effi-
2 cient, in light of the objective of both anti-
3 money-laundering programs and Federal tax
4 administration, for the Internal Revenue Serv-
5 ice to retain authority and responsibility for
6 audit and examination of the compliance of
7 money services businesses and gaming institu-
8 tions with those Bank Secrecy Act provisions;
9 and

20 SEC. 210. BANK SECRECY PROVISIONS AND ANTI-TER-
21 RORIST ACTIVITIES OF UNITED STATES IN-
22 TELLIGENCE AGENCIES.

23 (a) AMENDMENT RELATING TO THE PURPOSES OF
24 THE BANK SECRECY ACT.—Section 5311 of title 31,
25 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

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 tigations 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, interna-
4 tional 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 criminals
4 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—

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

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”.

1 **TITLE IV—ANTICORRUPTION**
2 **MEASURES**

3 **SEC. 401. CORRUPTION OF FOREIGN GOVERNMENTS AND**
4 **RULING ELITES.**

5 It is the sense of Congress that, in deliberations be-
6 tween the United States Government and any other coun-
7 try on money laundering and corruption issues, the United
8 States Government should—

9 (1) emphasize an approach that addresses not
10 only the laundering of the proceeds of traditional
11 criminal activity but also the increasingly endemic
12 problem of governmental corruption and the corrup-
13 tion of ruling elites;

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

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

23 (4) advance policies and measures to promote
24 good government and to prevent and reduce corrup-
25 tion and money laundering, including through in-

1 structions 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—

20 (3) the United States should support the public
21 release of the list naming noncooperative jurisdictions
22 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**

A BILL

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

OCTOBER 9, 2001

Read twice and placed on the calendar