

114TH CONGRESS  
1ST SESSION

# H. R. 4242

To strengthen the Federal statutes designed to deter money laundering and terrorism financing, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2015

Ms. MAXINE WATERS of California introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To strengthen the Federal statutes designed to deter money laundering and terrorism financing, 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       “Holding Individuals Accountable and Deterring Money  
6       Laundering Act”.

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.

## TITLE I—HOLDING EXECUTIVES RESPONSIBLE FOR VIOLATIONS

- Sec. 101. Penalties for violations of the Bank Secrecy Act.
- Sec. 102. Criminal penalties.
- Sec. 103. Strengthening civil injunctive authority.
- Sec. 104. Clarification of removal and prohibition authority under the FDIA.
- Sec. 105. Independent litigation authority for FinCEN.
- Sec. 106. Treatment of executive compensation and personal liability.
- Sec. 107. Corporate governance and the legal responsibilities.

## TITLE II—STRENGTHENING OF REGULATORY OVERSIGHT AND ACCOUNTABILITY

- Sec. 201. Reporting and oversight of Bank Secrecy Act-related enforcement actions.
- Sec. 202. Consideration of BSA compliance in management ratings.

## TITLE III—CLARIFICATION OF SAFE HARBOR PROTECTIONS

- Sec. 301. Safe harbor protections.

## TITLE IV—STRENGTHENING REQUIREMENTS AND CLOSING LOOPHOLES

- Sec. 401. Expanding the crimes that can be a predicate offense to money laundering.
- Sec. 402. Closing loopholes in Bank Secrecy Act reporting.
- Sec. 403. Definition of an institution-affiliated party.

## TITLE V—WHISTLEBLOWER PROTECTIONS

- Sec. 501. Modernization and upgrading whistleblower protections.

## TITLE VI—SENSE OF THE CONGRESS REGARDING CRIMINAL PENALTIES

- Sec. 601. Sense of the Congress.

## TITLE VII—STRENGTHENING GLOBAL COMMITMENTS

- Sec. 701. International coordination.
- Sec. 702. Sense of Congress regarding list of countries at high risk for money laundering.

**1 SEC. 2. FINDINGS.**

2       The Congress finds the following:

- 3           (1) Money laundering is a serious threat to our  
 4       national and economic security. The scale, efficiency,  
 5       and complexity of the U.S. financial system make it  
 6       a prime target for those who seek to conceal and  
 7       move the proceeds of illicit activity.

1           (2) The spate of recent high-profile enforcement  
2 actions against some of the largest and most sophis-  
3 ticated financial institutions raises troubling ques-  
4 tions about the effectiveness of U.S. domestic anti-  
5 money laundering and counterterrorism financing  
6 regulatory, compliance and enforcement efforts.

7           (3) Money launderers have proven to adapt  
8 quickly in order to avoid detection. U.S. anti-money  
9 laundering laws and regulations must be rigorously  
10 reviewed and constantly updated to close loopholes  
11 and address the changing tactics employed by bad  
12 actors.

13           (4) Given the global nature of money laun-  
14 dering and terrorist financing and the increasing  
15 interrelatedness of the global financial system, a se-  
16 cure global framework is essential to the integrity of  
17 the U.S. financial system.

18           (5) Efforts to stanch the flow of illegal money  
19 across the world to drug cartels and terrorist organi-  
20 zations should be a top U.S. priority. To achieve this  
21 mission, extensive collaboration among financial reg-  
22 ulators, the Department of the Treasury, the De-  
23 partment of State, the Department of Justice and  
24 State and Federal law enforcement agencies is re-  
25 quired.

1           (6) U.S. anti-money laundering laws should  
2 meet international standards set by the Financial  
3 Action Task Force.

4           (7) Without serious consequences for institu-  
5 tions and individuals who fail to protect financial in-  
6 stitutions from illicit financial activity—including  
7 significant fines, banning individuals from the indus-  
8 try, and prison sentences for those who seek to ac-  
9 tively evade anti-money laundering controls, finan-  
10 cial institutions and individuals will continue to  
11 avoid compliance with U.S. anti-money laundering  
12 rules and regulations.

13           (8) Effective anti-money laundering programs  
14 must emphasize sound corporate governance includ-  
15 ing business line accountability and clear lines of  
16 legal responsibility for individuals, including board  
17 members and chief executive officers.

18           (9) Avoiding money laundering risks requires  
19 an effective anti-money laundering program and a  
20 strong institutional compliance culture, with written  
21 standards, knowledgeable and adequate staff, strong  
22 monitoring processes, effective anti-money laun-  
23 dering training, and compensation structures that  
24 reward compliance.

1           (10) Anti-money laundering deficiencies often  
2 reflect weaknesses in the management of a financial  
3 firm, which can in turn adversely affect the firm's  
4 overall safety and soundness. Failure to account for  
5 management deficiencies in this context may perpet-  
6 uate a false perception of the stability of financial  
7 firms.

8           (11) Anti-money laundering examinations in re-  
9 cent years at times failed to recognize the cumu-  
10 lative effect of the violations they cited, instead nar-  
11 rowly focusing their attention on individual banking  
12 units. The failure to review the cumulative effect of  
13 such violations permitted national banks to avoid  
14 and delay correcting problems, which allowed mas-  
15 sive problems to occur before serious enforcement  
16 actions were taken.

17           (12) Independent contractors often play a cen-  
18 tral role in monitoring and auditing the overall ade-  
19 quacy and effectiveness of a bank's compliance pro-  
20 gram under the Bank Secrecy Act. Any failure to  
21 hold these independent entities to the same standard  
22 as any other party who participates in the affairs of  
23 a bank may jeopardize the efficacy of a bank's anti-  
24 money laundering program.

1           (13) Collaboration is an essential component of  
2 the U.S. strategy against money laundering, and is  
3 critical to our national security. U.S. law enforce-  
4 ment agencies are most effective when they work to-  
5 gether by sharing information, insight, and data.

6           (14) The flow of information related to sus-  
7 picious activity from financial institutions to law en-  
8 forcement plays a key role in facilitating the disrup-  
9 tion of terrorist networks that seek to harm the  
10 United States. The flow of such information depends  
11 on a high degree of certainty that financial institu-  
12 tions will be protected from civil liability when shar-  
13 ing such information with Federal law enforcement  
14 agencies.

15           (15) Whistleblower rights and protections play  
16 an important role in helping to ensure corporate in-  
17 tegrity. Robust protections for whistleblowers and  
18 enhanced rewards for informants will incentivize  
19 compliance with anti-money laundering rules and  
20 procedures, and encourage the provision of valuable  
21 information to regulators and law enforcement agen-  
22 cies.

1 **TITLE I—HOLDING EXECUTIVES**  
2 **RESPONSIBLE FOR VIOLATIONS**

3 **SEC. 101. PENALTIES FOR VIOLATIONS OF THE BANK SE-**  
4 **CRECY ACT.**

5 (a) CIVIL MONETARY PENALTIES FOR WILLFUL VIO-  
6 LATIONS.—Section 5321(a) of title 31, United States  
7 Code, is amended—

8 (1) by striking “(a)(1) A domestic financial in-  
9 stitution” and inserting the following:

10 “(a) IN GENERAL.—

11 “(1) CIVIL MONETARY PENALTIES FOR WILL-  
12 FUL VIOLATIONS.—A domestic financial institution”;

13 (2) in paragraph (1)—

14 (A) by striking “willfully violating” each  
15 place such term appears and inserting “willfully  
16 violating, or willfully causing any violation of,”;

17 (B) by striking “the amount (not to exceed  
18 \$100,000) involved in the transaction (if any)  
19 or \$25,000” and inserting “10 times the  
20 amount (not to exceed \$10,000,000) involved in  
21 the transaction (if any) or \$250,000”; and

22 (C) by adding at the end the following: “In  
23 determining appropriate monetary penalty  
24 amounts under this paragraph, the Secretary  
25 has the authority to ensure that penalty

1 amounts are commensurate with the nature of  
2 the violations, any patterns of violations, and,  
3 with respect to a financial institution or non-  
4 financial trade or business, the size, capitaliza-  
5 tion and market share of such institution or  
6 trade or business.”; and

7 (3) in paragraph (4)(A), by inserting after  
8 “who violates” the following: “, or causes any viola-  
9 tion of,”.

10 (b) CIVIL MONETARY PENALTIES FOR NEGLIGENT  
11 VIOLATIONS.—Section 5321(a)(6) of title 31, United  
12 States Code, is amended to read as follows:

13 “(6) NEGLIGENCE.—

14 “(A) IN GENERAL.—The Secretary of the  
15 Treasury may impose a civil money penalty, for neg-  
16 ligent violations of any provision of this subchapter  
17 or any regulation prescribed under this subchapter,  
18 of not more than—

19 “(i) \$50,000, with respect to a financial in-  
20 stitution or nonfinancial trade or business; and

21 “(ii) \$5,000, with respect to any partner,  
22 director, officer, or employee of an institution,  
23 trade, or business.

24 “(B) VIOLATIONS OF THE REQUIREMENT TO  
25 MAINTAIN PROCEDURES TO ENSURE COMPLIANCE.—



1 For a violation of a regulation prescribed under sec-  
2 tion 5318(a)(2), a separate violation occurs for each  
3 day the violation continues and at each office,  
4 branch, or place of business at which a violation oc-  
5 curs or continues.

6 “(C) DETERMINATION OF PENALTY AMOUNT.—  
7 In determining appropriate monetary penalty  
8 amounts under this paragraph, the Secretary has  
9 the authority to ensure that penalty amounts are  
10 commensurate with the nature of the violations, any  
11 patterns of violations, and, with respect to a finan-  
12 cial institution or nonfinancial trade or business, the  
13 size, capitalization and market share of such institu-  
14 tion or trade or business.”.

15 **SEC. 102. CRIMINAL PENALTIES.**

16 (a) IN GENERAL.—Section 5322 of title 31, United  
17 States Code, is amended—

18 (1) by redesignating subsections (c) and (d) as  
19 subsections (d) and (e), respectively;

20 (2) by inserting after subsection (b) the fol-  
21 lowing:

22 “(c) FACILITATING EVASION.—In the case of a per-  
23 son described under subsection (a) or (b) who additionally  
24 takes steps to facilitate evasion of a program or controls  
25 under a regulation prescribed or order issued under this

1 subchapter (except section 5315 or 5324 of this title or  
2 a regulation prescribed under section 5315 or 5324), sec-  
3 tion 21 of the Federal Deposit Insurance Act, or section  
4 123 of Public Law 91–508, the maximum prison terms  
5 under such subsections shall be treated as 20 years.”; and

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

7 “(f) REPORT.—In any case in which the Department  
8 of Justice settles a case with an individual or institution  
9 for violations under the this subchapter in exchange for  
10 a monetary penalty, the Department shall report to the  
11 Congress on why it did or did not pursue prison sentences  
12 in conjunction with the monetary penalty.”.

13 (b) GAO REVIEW OF BANK SECRECY ACT CRIMINAL  
14 SENTENCES AND MANDATORY MINIMUM SENTENCING.—

15 (1) STUDY.—The Comptroller General of the  
16 United States shall carry out a study of the manda-  
17 tory minimum sentencing laws and guidelines for  
18 narcotics-related offenses and the prosecutorial dis-  
19 cretion provided to the Department of Justice in de-  
20 termining criminal penalties for persons found guilty  
21 of violating Federal anti-money laundering laws. In  
22 carrying out such study, the Comptroller General  
23 shall compare and contrast the severity of the two  
24 sets of felonies.

1           (2) REPORT.—Not later than the end of the 6-  
2           month period following the date of the enactment of  
3           this Act, the Comptroller General shall issue a re-  
4           port to the Congress containing all findings and de-  
5           terminations made in carrying out the study re-  
6           quired by subsection (a), including any disparities  
7           identified in the appropriateness of the differing sen-  
8           tencing procedures and recommendations for estab-  
9           lishing a more balanced sentencing system for Fed-  
10          eral felonious acts.

11 **SEC. 103. STRENGTHENING CIVIL INJUNCTIVE AUTHORITY.**

12          Section 5320 of title 31, United States Code, is  
13          amended—

14                 (1) by striking “When the Secretary” and in-  
15                 serting the following:

16                 “(a) IN GENERAL.—When the Secretary”;

17                 (2) by inserting after “will violate” the fol-  
18                 lowing: “or has caused, is causing, or will cause a  
19                 violation of”; and

20                 (3) by inserting at the end the following:

21                 “(b) PROHIBITION ON CERTAIN INDIVIDUALS.—In  
22                 any proceeding under subsection (a), the court may pro-  
23                 hibit, conditionally or unconditionally, and permanently or  
24                 for such period of time as it shall determine, any indi-  
25                 vidual who violated this subchapter, or a regulation pre-

1 scribed or order issued under this subchapter, from acting  
2 as an officer or director of a financial institution if the  
3 person’s conduct demonstrates unfitness to serve as an of-  
4 ficer or director of a financial institution.”.

5 **SEC. 104. CLARIFICATION OF REMOVAL AND PROHIBITION**  
6 **AUTHORITY UNDER THE FDIA.**

7 Section 8(e)(2)(A) of the Federal Deposit Insurance  
8 Act (12 U.S.C. 1818(e)(2)(A)) is amended—

9 (1) in clause (i), by striking “was not inad-  
10 vertent or unintentional” and inserting “involved a  
11 reckless disregard for the law or any applicable regu-  
12 lations or prior order of the appropriate Federal  
13 banking agency”; and

14 (2) in clause (ii), by striking “has knowledge”  
15 and inserting “knew, or should have known,”.

16 **SEC. 105. INDEPENDENT LITIGATION AUTHORITY FOR**  
17 **FINCEN.**

18 Section 310 of title 31, United States Code, is  
19 amended—

20 (1) by redesignating subsection (d) as sub-  
21 section (e); and

22 (2) by inserting after subsection (c) the fol-  
23 lowing:

24 “(d) INDEPENDENT LITIGATION AUTHORITY.—  
25 FinCEN may act in its own name and through its own

1 attorneys in enforcing any provision of subchapter II of  
2 chapter 53, section 21 of the Federal Deposit Insurance  
3 Act, section 123 of Public Law 91–508, any rules there-  
4 under, or any other law or regulation, or in any action,  
5 suit, or proceeding relating to such laws or regulations to  
6 which the Financial Crimes Enforcement Network is a  
7 party.”.

8 **SEC. 106. TREATMENT OF EXECUTIVE COMPENSATION AND**  
9 **PERSONAL LIABILITY.**

10 (a) CERTAIN EXECUTIVE COMPENSATION INCEN-  
11 TIVES BARRED.—The appropriate Federal banking agen-  
12 cies, the Securities and Exchange Commission, the Com-  
13 modities Futures Trading Commission, and the Financial  
14 Crimes Enforcement Network shall issue regulations pro-  
15 hibiting financial institutions that are subject to an anti-  
16 money laundering program requirement under chapter X  
17 of title 31, Code of Federal Regulations, from providing  
18 executive compensation based on any criteria that could  
19 undermine compliance by individuals with the require-  
20 ments of subchapter II of chapter 53 of title 31, United  
21 States Code, section 21 of the Federal Deposit Insurance  
22 Act (12 U.S.C. 1829b), or section 123 of Public Law 91–  
23 508.

24 (b) NO AVOIDANCE OF PERSONAL LIABILITY.—

1           (1) IN GENERAL.—An officer, director, em-  
2           ployee, or other institution-affiliated party of a fi-  
3           nancial institution that is subject to an anti-money  
4           laundering program requirement under chapter X of  
5           title 31, Code of Federal Regulations, who is re-  
6           quired by a Federal bank secrecy law that provides  
7           for personal liability, or any rule or order promul-  
8           gated by an appropriate Federal banking agency, the  
9           Securities and Exchange Commission, the Com-  
10          modity Futures Trading Commission, or the Finan-  
11          cial Crimes Enforcement Network thereunder, to  
12          repay previously earned executive compensation or  
13          pay a civil money penalty—

14                 (A) shall be personally liable for the  
15                 amounts so owed; and

16                 (B) may not, directly or indirectly, insure  
17                 or hedge against, or otherwise transfer the risks  
18                 associated with, personal liability for the  
19                 amounts so owed.

20          (2) RULE OF CONSTRUCTION.—Paragraph (1)  
21          shall not preclude a person from being provided  
22          funds necessary to defend against an action to re-  
23          cover previously earned executive compensation or a  
24          civil money penalty described under paragraph (1)—

1 (A) from the relevant financial institution  
2 subject to an anti-money laundering program  
3 under chapter X of title 31, Code of Federal  
4 Regulations;

5 (B) under an insurance policy; or

6 (C) pursuant to court order.

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

8 (1) APPROPRIATE FEDERAL BANKING AGEN-  
9 CY.—The term “appropriate Federal banking agen-  
10 cy” has the meaning given such term under section  
11 3 of the Federal Deposit Insurance Act (12 U.S.C.  
12 1813).

13 (2) EXECUTIVE COMPENSATION.—The term  
14 “executive compensation” means anything of value,  
15 regardless of the form in which provided, that is  
16 given by any institution subject to subsection (a) or  
17 its parent company to an officer, director, employee,  
18 or other institution-affiliated party in return for that  
19 individual’s service to such entity.

20 (3) FEDERAL BANK SECRECY LAW.—The term  
21 “Federal bank secrecy law” means—

22 (A) the reporting requirements set forth in  
23 section 21 of the Federal Deposit Insurance Act  
24 (12 U.S.C. 1829b);

1 (B) section 123 of Public Law 91–508;  
2 and

3 (C) subchapter II of chapter 53 of title 31,  
4 United States Code.

5 (4) INSTITUTION-AFFILIATED PARTY.—The  
6 term “institution-affiliated party”—

7 (A) has the meaning given such term  
8 under subsection (u) of section 3 of the Federal  
9 Deposit Insurance Act (12 U.S.C. 1813); and

10 (B) shall apply with respect to an institu-  
11 tion subject to subsection (a) and its parent  
12 company to the same extent as such subsection  
13 applies to an insured depository institution.

14 **SEC. 107. CORPORATE GOVERNANCE AND THE LEGAL RE-**  
15 **SPONSIBILITIES.**

16 (a) IN GENERAL.—Chapter 53 of title 31, United  
17 States Code, is amended—

18 (1) by inserting after section 5322, the fol-  
19 lowing:

20 **“§ 5322A. Corporate governance and the legal respon-**  
21 **sibility of officers and employees**

22 “(a) ENSURING COMPLIANCE.—The Secretary of the  
23 Treasury, in consultation with the appropriate Federal  
24 banking agencies, the Securities and Exchange Commis-  
25 sion, and the Commodities Futures Trading Commission,



1 shall issue regulations requiring each financial institution  
2 that is subject to an anti-money laundering program re-  
3 quirement under chapter X of title 31, Code of Federal  
4 Regulations, to ensure compliance with the anti-money  
5 laundering program requirements described under section  
6 5318(h) by establishing written policies, procedures, and  
7 risk management standards for ensuring compliance with  
8 the requirements of this subtitle that—

9           “(1) require the head of compliance for each  
10       business line of such institution to make regular re-  
11       ports directly to the board of directors and the chief  
12       executive officer of such institution on the business  
13       line’s compliance activities;

14           “(2) require the board to certify each report re-  
15       ceived pursuant to paragraph (1);

16           “(3) ensure adequate staffing and funding for  
17       entities within the institution responsible for compli-  
18       ance with the requirements of this subtitle; and

19           “(4) periodically test the effectiveness of the in-  
20       stitution’s programs for compliance with the require-  
21       ments of this subtitle.

22       “(b) LEGAL RESPONSIBILITY OF CERTAIN OFFICERS  
23       AND EMPLOYEES.—With respect to any violation of this  
24       subtitle by each financial institution that is subject to an  
25       anti-money laundering program requirement under chap-

1 ter X of title 31, Code of Federal Regulations, any officer  
2 or other employee who was in a position that would have  
3 enabled such officer or employee to materially affect com-  
4 pliance with the requirements of this subtitle shall also  
5 be in violation of this subtitle, if such officer or other em-  
6 ployee knew, or should have known, that such violation  
7 was being committed and did not take meaningful steps  
8 to stop such violation.

9 “(c) CLAWBACK EMPLOYMENT PROVISION.—Each fi-  
10 nancial institution that is subject to an anti-money laun-  
11 dering program requirement under chapter X of title 31,  
12 Code of Federal Regulations, shall, in each employment  
13 agreement entered into by such institution, include a pro-  
14 vision that gives the institution the right to require the  
15 repayment of any bonus or other compensation paid to the  
16 employee in any case where such employee was violating  
17 a provision of this subchapter and knew, or should have  
18 known, of such violation.

19 “(d) DEFINITION.—For purposes of this section, the  
20 term ‘appropriate Federal banking agency’ has the mean-  
21 ing given such term under section 3 of the Federal Deposit  
22 Insurance Act (12 U.S.C. 1813).”; and

23 (2) in the table of contents for such chapter, by  
24 inserting after the item relating to section 5322 the  
25 following new item:

“5322A. Corporate governance and the legal responsibility of officers and employees.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 subsection (a) shall apply to a financial institution (as  
 3 such term is defined under section 5312 of title 31, United  
 4 States Code) after the end of the 6-month period begin-  
 5 ning on the date of the enactment of this Act.

6 **TITLE II—STRENGTHENING OF**  
 7 **REGULATORY OVERSIGHT**  
 8 **AND ACCOUNTABILITY**

9 **SEC. 201. REPORTING AND OVERSIGHT OF BANK SECRECY**  
 10 **ACT-RELATED ENFORCEMENT ACTIONS.**

11 (a) IN GENERAL.—Chapter 53 of title 31, United  
 12 States Code, is amended—

13 (1) by inserting after section 5326 the fol-  
 14 lowing:

15 **“§ 5327. Oversight of examination and enforcement**  
 16 **activities**

17 “(a) REPORTING OF ENFORCEMENT ACTIVITIES TO  
 18 FINCEN.—Each appropriate Federal banking agency, the  
 19 Securities and Exchange Commission, and the Commodity  
 20 Futures Trading Commission shall report to FinCEN on  
 21 each formal and informal enforcement or supervisory ac-  
 22 tion, including each matter requiring attention, and each  
 23 matter requiring immediate attention, related to a viola-  
 24 tion of this subchapter or anti-money laundering defi-

1 ciency, taken by such agency to enforce the requirements  
2 of this subchapter, including, for each such action—

3 “(1) the type of violation or deficiency with re-  
4 spect to which the enforcement or supervisory action  
5 was taken; and

6 “(2) the specific type of formal or informal en-  
7 forcement or supervisory action taken.

8 “(b) REVIEW OF REPORTS BY FINCEN.—

9 “(1) IN GENERAL.—FinCEN shall review all re-  
10 ports submitted by agencies under subsection (a) to  
11 identify systemic or repeated instances of non-com-  
12 pliance and, if FinCEN determines that an agency  
13 has failed to adequately or appropriately carry out  
14 the agency’s enforcement responsibilities with re-  
15 spect to the requirements of this subchapter,  
16 FinCEN shall issue a report to such agency con-  
17 taining an explanation of FinCEN’s determination.

18 “(2) REPORT TO THE CONGRESS.—FinCEN  
19 shall issue an annual report to the Congress con-  
20 taining—

21 “(A) a summary of all formal and informal  
22 enforcement or supervisory actions for which  
23 FinCEN received notification from the agencies  
24 under subsection (a), but without any privileged  
25 or confidential information contained in such

1 report, as identified by the agency submitting  
2 the report; and

3 “(B) any recommendations made by  
4 FinCEN to such agencies in response to a de-  
5 termination by FinCEN that the agency failed  
6 to adequately or appropriately carry out the  
7 agency’s enforcement or supervisory responsi-  
8 bility or failed to take adequate or appropriate  
9 corrective action in response to any individual  
10 violation or pattern of violations.

11 “(c) INSPECTOR GENERAL REVIEW OF PROCE-  
12 DURES.—The Inspector General of each appropriate Fed-  
13 eral banking agency shall—

14 “(1) carry out at least one review each year of  
15 the agency’s examination and enforcement activities  
16 with respect to ensuring compliance with the re-  
17 quirements of this subchapter and ensuring ade-  
18 quate resources are being devoted to such enforce-  
19 ment; and

20 “(2) make such reviews available to the public,  
21 including on the website of the Inspector General.

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

23 “(1) FINCEN.—The term ‘FinCEN’ means the  
24 Financial Crimes Enforcement Network.

1           “(2) OTHER TERMS.—The terms ‘appropriate  
2           Federal banking agency’ and ‘insured depository in-  
3           stitution’ have the meaning given those terms, re-  
4           spectively, under section 3 of the Federal Deposit  
5           Insurance Act (12 U.S.C. 1813).”;

6           (2) in the table of contents for such chapter, by  
7           inserting after the item relating to section 5326 the  
8           following new item:

          “5327. Oversight of examination and enforcement activities.”.

9           (b) CONFIDENTIALITY OF INFORMATION SUBMITTED  
10          TO FINCEN.—Section 310 of title 31, United States  
11          Code, is amended—

12           (1) by redesignating subsection (d) as sub-  
13           section (e); and

14           (2) by inserting after subsection (c) the fol-  
15           lowing:

16          “(d) CONFIDENTIALITY OF INFORMATION SUB-  
17          MITTED TO FINCEN.—The submission by any appro-  
18          priate Federal banking agency (as such term is defined  
19          under section 3 of the Federal Deposit Insurance Act) of  
20          any information to FinCEN for any purpose in the course  
21          of any supervisory or regulatory process of such agency  
22          shall not be construed as waiving, destroying, or otherwise  
23          affecting any privilege, including confidentiality of super-  
24          visory information, that any agency or person may claim

1 with respect to such information under Federal or State  
2 law.”.

3 **SEC. 202. CONSIDERATION OF BSA COMPLIANCE IN MAN-**  
4 **AGEMENT RATINGS.**

5 (a) IN GENERAL.—To the extent there are ratings  
6 of a depository institution’s management and internal con-  
7 trols, the appropriate Federal banking agencies shall con-  
8 sider the extent to which the institution complies with the  
9 requirements of the Bank Secrecy Act.

10 (b) DEFINITIONS.—

11 (1) BANK SECRECY ACT.—The term “Bank Se-  
12 crecy Act” has the meaning given the term “Federal  
13 bank secrecy law” under section 106(c)(5).

14 (2) OTHER DEFINITIONS.—The terms “appro-  
15 priate Federal banking agency” and “depository in-  
16 stitution” have the meaning given those terms, re-  
17 spectively, under section 3 of the Federal Deposit  
18 Insurance Act (12 U.S.C. 1813).

19 **TITLE III—CLARIFICATION OF**  
20 **SAFE HARBOR PROTECTIONS**

21 **SEC. 301. SAFE HARBOR PROTECTIONS.**

22 (a) DISCLOSURE TO GOVERNMENT AGENCIES.—Sec-  
23 tion 5318(g)(3)(B) of title 31, United States Code, is  
24 amended—

25 (1) in clause (i), by striking “or” at the end;

1 (2) in clause (ii), by striking the period and in-  
2 serting “; or”; and

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

4 “(iii) any duty or requirement of a fi-  
5 nancial institution or any director, officer,  
6 employee, or agent of such institution to  
7 demonstrate that a disclosure described in  
8 subparagraph (A) is made in good faith.”.

9 (b) DISCLOSURE TO FINANCIAL INSTITUTIONS.—  
10 Section 314 of the USA PATRIOT Act (31 U.S.C. 5311  
11 note) is amended—

12 (1) in subsection (b)—

13 (A) by striking “terrorist or money laun-  
14 dering activities” and inserting “terrorist or  
15 money laundering activities or a specified un-  
16 lawful activity (as defined in section 1956(e)(7)  
17 of title 18, United States Code)”; and

18 (B) by striking “terrorist acts or money  
19 laundering activities” and inserting “such acts  
20 or activities”; and

21 (2) in subsection (c), by striking “terrorist acts  
22 or money laundering activities” and inserting “ter-  
23 rorist or money laundering activities or a specified  
24 unlawful activity (as defined in section 1956(e)(7) of  
25 title 18, United States Code)”.



1 **TITLE IV—STRENGTHENING RE-**  
2 **QUIREMENTS AND CLOSING**  
3 **LOOPHOLES**

4 **SEC. 401. EXPANDING THE CRIMES THAT CAN BE A PREDI-**  
5 **CATE OFFENSE TO MONEY LAUNDERING.**

6 Section 1956(c)(7) of title 18, United States Code,  
7 is amended to read as follows:

8 “(7) the term ‘specified unlawful activity’  
9 means any act or activity constituting an offense in  
10 violation of the laws of the United States punishable  
11 by imprisonment for a term exceeding 1 year;”.

12 **SEC. 402. CLOSING LOOPHOLES IN BANK SECRECY ACT RE-**  
13 **PORTING.**

14 (a) REPORT TO CONGRESS ON THE STATUS OF THE  
15 TEMPORARY EXEMPTIONS.—FinCEN shall issue a report  
16 to Congress on the status of the temporary exemptions  
17 under section 1010.205(b) of title 31, Code of Federal  
18 Regulations, including any reviews, studies, or proposed  
19 or notice of a rulemaking that FinCEN has undertaken  
20 with regard to each financial institution that is exempted  
21 from the requirement concerning the establishment of  
22 anti-money laundering programs. The report shall also in-  
23 clude a justification for the exemption of each category  
24 of financial institution exempted under the regulation.

1 (b) REPORTING BY CERTAIN TRANSPORTERS.—Not  
2 later than the end of the 270-day period beginning on the  
3 date of the enactment of this Act, the Secretary of the  
4 Treasury shall issue final regulations to establish the man-  
5 ner in which operators of armored cars and other commer-  
6 cial monetary instrument transport enterprises are to  
7 comply with the reporting requirements under section  
8 5316 of title 31, United States Code.

9 **SEC. 403. DEFINITION OF AN INSTITUTION-AFFILIATED**  
10 **PARTY.**

11 (a) DEFINITION.—Section 3 of the Federal Deposit  
12 Insurance Act (12 U.S.C. 1813(u)) is amended—

13 (1) in subsection (u)(4), by striking “know-  
14 ingly” and all that follows through the end of the  
15 paragraph and inserting “participates in the conduct  
16 of, the affairs of, or conducts the business of an in-  
17 sured depository institution.”; and

18 (2) by adding at the end the following:

19 “(aa) UNSAFE OR UNSOUND PRACTICE.—The term  
20 ‘unsafe or unsound practice’ means, any action, or lack  
21 of action, which is contrary to generally accepted stand-  
22 ards of prudent operation, the possible consequences of  
23 which, if continued, would be abnormal risk or loss or  
24 damage to an institution, its shareholders, or the Deposit  
25 Insurance Fund.”.

1 (b) RULE OF CONSTRUCTION RELATED TO INDE-  
 2 PENDENT CONTRACTORS.—Section 8 of the Federal De-  
 3 posit Insurance Act (12 U.S.C. 1818) is amended by add-  
 4 ing at the end the following:

5 “(x) RULE OF CONSTRUCTION RELATED TO INDE-  
 6 PENDENT CONTRACTORS.—For purposes of this Act, an  
 7 independent contractor participates in the conduct of the  
 8 affairs of, or conducts the business of, an insured deposi-  
 9 tory institution by performing services for the institu-  
 10 tion.”.

11 **TITLE V—WHISTLEBLOWER**  
 12 **PROTECTIONS**

13 **SEC. 501. MODERNIZATION AND UPGRADING WHISTLE-**  
 14 **BLOWER PROTECTIONS.**

15 (a) IN GENERAL.—Section 5328 of title 31, United  
 16 States Code, is amended—

17 (1) by striking subsections (a) and (b) and in-  
 18 serting the following:

19 “(a) PROHIBITION AGAINST DISCRIMINATION.—No  
 20 financial institution or nonfinancial trade or business may  
 21 discharge or otherwise discriminate against any applicant  
 22 for employment, employee, or former employee with re-  
 23 spect to compensation, terms, conditions, or privileges of  
 24 employment because the applicant, employee, or former

1 employee (or any person acting pursuant to the request  
2 of the employee)—

3           “(1) provided, was about to provide, assisted in  
4 providing, or was perceived as providing information  
5 to the Secretary of the Treasury, the Attorney Gen-  
6 eral, any Federal supervisory agency, or the Con-  
7 gress regarding a possible violation of any provision  
8 of this subchapter or section 1956, 1957, or 1960 of  
9 title 18, or any regulation under any such provision,  
10 by the financial institution or nonfinancial trade or  
11 business or any director, officer, or employee of the  
12 financial institution or nonfinancial trade or busi-  
13 ness; or

14           “(2) objected to, or refused to participate in,  
15 any activity, policy, practice, or assigned task that  
16 the applicant, employee, former employee (or other  
17 such person) reasonably believed to be in violation of  
18 any provision of this subchapter or any other Act  
19 enforced by the Secretary of the Treasury, the At-  
20 torney General, a Federal supervisory agency, or any  
21 order, rule, regulation, standard, or ban under this  
22 subchapter of any of such Acts.

23           “(b) ENFORCEMENT.—Within the 2-year period be-  
24 ginning on the date an applicant, employee, or former em-  
25 ployee who believes that such applicant, employee, or

1 former employee has been discharged or discriminated  
2 against in violation of subsection (a), such applicant, em-  
3 ployee, or former employee may—

4 “(1) file a civil action in the appropriate United  
5 States district court, in accordance with the burdens  
6 of proof and remedies set forth in section 1057 of  
7 the Consumer Financial Protection Act of 2010 (12  
8 U.S.C. 5567); or

9 “(2) file a complaint with the Secretary of  
10 Labor with regards to a violation of subsection (a)  
11 to seek relief in accordance with the procedures, bur-  
12 dens of proof, and remedies set forth in section 1057  
13 of the Consumer Financial Protection Act of 2010  
14 (12 U.S.C. 5567) for a violation of subsection (a) of  
15 such section, except that for purposes of such a com-  
16 plaint, the time period specified under subsection  
17 (c)(1)(A) of such section shall be deemed to be a 2-  
18 year period.”;

19 (2) in subsection (c), by inserting after “district  
20 court” the following: “or the Secretary, as applica-  
21 ble,”; and

22 (3) by amending subsection (e) to read as fol-  
23 lows:

24 “(e) EDUCATION.—The Secretary of the Treasury  
25 shall issue regulations requiring each financial institution

1 and nonfinancial trade or business to provide education  
2 and training to its employees on the rights and remedies  
3 provided under this section, including through individual  
4 notice to its employees, posting information on its website  
5 home page, and providing mandatory training for its em-  
6 ployees. Such education and training may be incorporated  
7 into existing education or training on the requirements of  
8 this subtitle provided by such institution or trade or busi-  
9 ness.

10 “(f) INDEPENDENT LINES OF COMMUNICATION.—

11 The Secretary of the Treasury shall issue regulations re-  
12 quiring each financial institution and nonfinancial trade  
13 or business—

14 “(1) to have a procedure in place for an em-  
15 ployee or former employee to report directly to the  
16 chief executive officer, a representative appointed by  
17 and reporting directly to the chief executive officer  
18 who is specifically designated to receive such a re-  
19 port, or through a hotline consistent with profes-  
20 sional best practices to the audit committee of the  
21 board of directors, if such employee or former em-  
22 ployee believes that violations of this subchapter  
23 have occurred or are occurring at such institution,  
24 trade, or business; and

1           “(2) to not discriminate against an employee or  
2 former employee for such reports.”.

3           (b) REWARDS.—Section 5323(d) of title 31, United  
4 States Code, is amended to read as follows:

5           “(d) SOURCE OF REWARDS.—For the purposes of  
6 paying an award under this section, there are authorized  
7 to be appropriated such sums as may be necessary, and  
8 the Secretary may also use funds from the Department  
9 of the Treasury Forfeiture Fund and the Department of  
10 Justice Assets Forfeiture Fund.”.

11           (c) WHISTLEBLOWER INCENTIVES.—

12           Chapter 53 of title 31, United States Code, is  
13 amended—

14           (1) by inserting after section 5323 the fol-  
15 lowing:

16 **“§ 5323A. Whistleblower incentives**

17           “(a) DEFINITIONS.—For purposes of this section:

18           “(1) BANK SECRECY ACT.—The term ‘Bank Se-  
19 crecy Act’ means this subchapter, section 21 of the  
20 Federal Deposit Insurance Act (12 U.S.C. 1829b),  
21 and section 123 of Public Law 91–508.

22           “(2) COVERED JUDICIAL OR ADMINISTRATIVE  
23 ACTION.—The term ‘covered judicial or administra-  
24 tive action’ means any judicial or administrative ac-  
25 tion brought by FinCEN under the Bank Secrecy

1 Act that results in monetary sanctions exceeding  
2 \$1,000,000.

3 “(3) FINCEN.—The term ‘FinCEN’ means the  
4 Financial Crimes Enforcement Network.

5 “(4) MONETARY SANCTIONS.—The term ‘mone-  
6 tary sanctions’, when used with respect to any judi-  
7 cial or administrative action, means—

8 “(A) any monies, including penalties,  
9 disgorgement, and interest, ordered to be paid;  
10 and

11 “(B) any monies deposited into a  
12 disgorgement fund as a result of such action or  
13 any settlement of such action.

14 “(5) ORIGINAL INFORMATION.—The term  
15 ‘original information’ means information that—

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

18 “(B) is not known to FinCEN from any  
19 other source, unless the whistleblower is the  
20 original source of the information; and

21 “(C) is not exclusively derived from an al-  
22 legation made in a judicial or administrative  
23 hearing, in a governmental report, hearing,  
24 audit, or investigation, or from the news media,



1           unless the whistleblower is a source of the infor-  
2           mation.

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

9           “(7) WHISTLEBLOWER.—The term ‘whistle-  
10          blower’ means any individual who provides, or 2 or  
11          more individuals acting jointly who provide, informa-  
12          tion relating to a violation of laws enforced by  
13          FinCEN, in a manner established, by rule or regula-  
14          tion, by FinCEN.

15          “(b) AWARDS.—

16          “(1) IN GENERAL.—In any covered judicial or  
17          administrative action, or related action, FinCEN,  
18          under regulations it prescribes and subject to sub-  
19          section (c), shall pay an award or awards to 1 or  
20          more whistleblowers who voluntarily provided origi-  
21          nal information to FinCEN that led to the success-  
22          ful enforcement of the covered judicial or adminis-  
23          trative action, or related action, in an aggregate  
24          amount equal to—

1           “(A) not less than 10 percent, in total, of  
2           what has been collected of the monetary sanc-  
3           tions imposed in the action or related actions;  
4           and

5           “(B) not more than 30 percent, in total, of  
6           what has been collected of the monetary sanc-  
7           tions imposed in the action or related actions.

8           “(2) SOURCE OF AWARDS.—For the purposes of  
9           paying any award under paragraph (1) there are au-  
10          thorized to be appropriated such sums as may be  
11          necessary, and the Secretary may also use funds  
12          from the Department of the Treasury Forfeiture  
13          Fund and the Department of Justice Assets For-  
14          feiture Fund.

15          “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
16          NIAL OF AWARD.—

17                 “(1) DETERMINATION OF AMOUNT OF  
18                 AWARD.—

19                 “(A) DISCRETION.—The determination of  
20                 the amount of an award made under subsection  
21                 (b) shall be in the discretion of FinCEN.

22                 “(B) CRITERIA.—In responding to a dis-  
23                 closure and determining the amount of an  
24                 award made, FinCEN shall meet with the whis-

1           whistleblower to discuss evidence disclosed and  
2           rebuttals to the disclosure, and—

3                   “(i) shall take into consideration—

4                           “(I) the significance of the infor-  
5                           mation provided by the whistleblower  
6                           to the success of the covered judicial  
7                           or administrative action;

8                           “(II) the degree of assistance  
9                           provided by the whistleblower and any  
10                          legal representative of the whistle-  
11                          blower in a covered judicial or admin-  
12                          istrative action;

13                          “(III) the mission of FinCEN in  
14                          detering violations of the law by  
15                          making awards to whistleblowers who  
16                          provide information that lead to the  
17                          successful enforcement of such laws;  
18                          and

19                          “(IV) such additional relevant  
20                          factors as FinCEN may establish by  
21                          rule or regulation; and

22                          “(ii) shall not take into consideration  
23                          the balance of any fund described under  
24                          section 5323(d).

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

3           “(A) to any whistleblower who is, or was at  
4 the time the whistleblower acquired the original  
5 information submitted to FinCEN, a member,  
6 officer, or employee of—

7           “(i) an appropriate regulatory agency;

8           “(ii) the Department of Justice;

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

10          “(iv) a law enforcement organization;

11          “(B) to any whistleblower who is convicted  
12 of a criminal violation related to the judicial or  
13 administrative action for which the whistle-  
14 blower otherwise could receive an award under  
15 this section;

16          “(C) to any whistleblower who gains the  
17 information through the performance of an  
18 audit of financial statements required under the  
19 Bank Secrecy Act and for whom such submis-  
20 sion would be contrary to its requirements; or

21          “(D) to any whistleblower who fails to sub-  
22 mit information to FinCEN in such form as  
23 FinCEN may, by rule, require.

24          “(3) STATEMENT OF REASONS.—For any deci-  
25 sion granting or denying an award, FinCEN shall

1 provide to the whistleblower a statement of reasons  
2 that includes findings of fact and conclusions of law  
3 for all material issues.

4 “(d) REPRESENTATION.—

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

8 “(2) REQUIRED REPRESENTATION.—

9 “(A) IN GENERAL.—Any whistleblower  
10 who anonymously makes a claim for an award  
11 under subsection (b) shall be represented by  
12 counsel if the whistleblower anonymously sub-  
13 mits the information upon which the claim is  
14 based.

15 “(B) DISCLOSURE OF IDENTITY.—Prior to  
16 the payment of an award, a whistleblower shall  
17 disclose their identity and provide such other  
18 information as FinCEN may require, directly or  
19 through counsel for the whistleblower.

20 “(e) APPEALS.—Any determination made under this  
21 section, including whether, to whom, or in what amount  
22 to make awards, shall be in the discretion of FinCEN.  
23 Any such determination, except the determination of the  
24 amount of an award if the award was made in accordance  
25 with subsection (b), may be appealed to the appropriate

1 court of appeals of the United States not more than 30  
 2 days after the determination is issued by FinCEN. The  
 3 court shall review the determination made by FinCEN in  
 4 accordance with section 706 of title 5.”; and

5 (2) in the table of contents for such chapter, by  
 6 inserting after the item relating to section 5323 the  
 7 following new item:

“5323A. Whistleblower incentives.”.

8 **TITLE VI—SENSE OF THE CON-**  
 9 **GRESS REGARDING CRIMINAL**  
 10 **PENALTIES**

11 **SEC. 601. SENSE OF THE CONGRESS.**

12 It is the sense of Congress that the Department of  
 13 Justice should vigorously pursue criminal penalties to the  
 14 maximum extent of the law, including prison sentences,  
 15 for individuals who willfully violate Bank Secrecy Act anti-  
 16 money laundering laws, thereby exposing the U.S. finan-  
 17 cial system to a wide array of money laundering, drug  
 18 trafficking and terrorism financing risks.

19 **TITLE VII—STRENGTHENING**  
 20 **GLOBAL COMMITMENTS**

21 **SEC. 701. INTERNATIONAL COORDINATION.**

22 The Secretary of the Treasury shall work with the  
 23 Secretary’s foreign counterparts, including through the  
 24 Financial Action Task Force, the International Monetary  
 25 Fund, the World Bank, and the United Nations, to pro-

1 mote stronger anti-money laundering frameworks and en-  
2 forcement of anti-money laundering laws.

3 **SEC. 702. SENSE OF CONGRESS REGARDING LIST OF COUN-**  
4 **TRIES AT HIGH RISK FOR MONEY LAUN-**  
5 **DERING.**

6 It is the sense of Congress that when Treasury identi-  
7 fies countries or jurisdictions as a primary money laun-  
8 dering concern under section 311 of the USA Patriot Act,  
9 it should consider—

10 (1) countries and jurisdictions identified by the  
11 Department of State in its annual International  
12 Narcotics Control Strategy Report as Jurisdictions  
13 of Primary Concern or jurisdiction's subject to  
14 heightened scrutiny;

15 (2) whether the Financial Action Task Force  
16 has identified a country or jurisdiction as having  
17 anti-money laundering or counterterrorism financing  
18 deficiencies and to which countermeasures apply;  
19 and

20 (3) countries and jurisdictions that have not  
21 made sufficient progress in addressing the defi-  
22 ciencies identified by the Financial Action Task  
23 Force or have not committed to an action plan de-

- 1 developed with the Financial Action Task Force to ad-
- 2 dress the deficiencies.

○