

114TH CONGRESS
2D SESSION

H. R. 4450

To amend title 31, United States Code, to ensure that persons who form corporations or limited liability companies in the United States disclose the beneficial owners of those corporations or limited liability companies, in order to prevent wrongdoers from exploiting United States corporations and limited liability companies for criminal gain, to assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, and other misconduct involving United States corporations and limited liability companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2016

Mrs. CAROLYN B. MALONEY of New York (for herself, Mr. KING of New York, Ms. MAXINE WATERS of California, Mr. LYNCH, Mr. CAPUANO, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Incorporation Trans-
5 parency and Law Enforcement Assistance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Nearly 2,000,000 corporations and limited
9 liability companies are being formed under the laws
10 of the States each year.

11 (2) Very few States obtain meaningful informa-
12 tion about the beneficial owners of the corporations
13 and limited liability companies formed under their
14 laws.

15 (3) A person forming a corporation or limited
16 liability company within the United States typically
17 provides less information to the State of incorpora-
18 tion than is needed to obtain a bank account or driv-
19 er’s license and typically does not name a single ben-
20 efiticial owner.

21 (4) Criminals have exploited the weaknesses in
22 State formation procedures to conceal their identi-
23 ties when forming corporations or limited liability
24 companies in the United States, and have then used
25 the newly created entities to commit crimes affecting

1 interstate and international commerce such as ter-
2 rorism, drug trafficking, money laundering, tax eva-
3 sion, securities fraud, financial fraud, and acts of
4 foreign corruption.

5 (5) Law enforcement efforts to investigate cor-
6 porations and limited liability companies suspected
7 of committing crimes have been impeded by the lack
8 of available beneficial ownership information, as doc-
9 umented in reports and testimony by officials from
10 the Department of Justice, the Department of
11 Homeland Security, the Financial Crimes Enforce-
12 ment Network of the Department of the Treasury,
13 the Internal Revenue Service, the Government Ac-
14 countability Office, and others.

15 (6) In July 2006, a leading international anti-
16 money laundering organization, the Financial Action
17 Task Force on Money Laundering (in this section
18 referred to as the “FATF”), of which the United
19 States is a member, issued a report that criticizes
20 the United States for failing to comply with a FATF
21 standard on the need to collect beneficial ownership
22 information and urged the United States to correct
23 this deficiency by July 2008.

24 (7) In response to the FATF report, the United
25 States has repeatedly urged the States to strengthen

1 their incorporation practices by obtaining beneficial
2 ownership information for the corporations and lim-
3 ited liability companies formed under the laws of
4 such States.

5 (8) Many States have established automated
6 procedures that allow a person to form a new cor-
7 poration or limited liability company within the
8 State within 24 hours of filing an online application,
9 without any prior review of the application by a
10 State official. In exchange for a substantial fee, 2
11 States will form a corporation within 1 hour of a re-
12 quest.

13 (9) Dozens of Internet Web sites highlight the
14 anonymity of beneficial owners allowed under the in-
15 corporation practices of some States, point to those
16 practices as a reason to incorporate in those States,
17 and list those States together with offshore jurisdic-
18 tions as preferred locations for the formation of new
19 corporations, essentially providing an open invitation
20 to criminals and other wrongdoers to form entities
21 within the United States.

22 (10) In contrast to practices in the United
23 States, all 28 countries in the European Union are
24 required to have formation agents identify the bene-

1 ficial owners of the corporations formed under the
2 laws of the country.

3 (11) To reduce the vulnerability of the United
4 States to wrongdoing by United States corporations
5 and limited liability companies with hidden owners,
6 to protect interstate and international commerce
7 from criminals misusing United States corporations
8 and limited liability companies, to strengthen law en-
9 forcement investigations of suspect corporations and
10 limited liability companies, to set minimum stand-
11 ards for and level the playing field among State in-
12 corporation practices, and to bring the United States
13 into compliance with its international anti-money
14 laundering standards, Federal legislation is needed
15 to require the States to obtain beneficial ownership
16 information for the corporations and limited liability
17 companies formed under the laws of such States.

18 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

19 (a) TRANSPARENT INCORPORATION PRACTICES.—

20 (1) IN GENERAL.—Chapter 53 of title 31,
21 United States Code, is amended by inserting after
22 section 5332 the following new section:

23 **“§ 5333. Transparent incorporation practices**

24 “(a) REPORTING REQUIREMENTS.—

1 “(1) IN GENERAL.—Subject to paragraph (3),
2 not later than the beginning of fiscal year 2017, the
3 Secretary of the Treasury shall issue regulations re-
4 quiring each corporation and limited liability com-
5 pany formed in a State that does not have a forma-
6 tion system described under subsection (b) to file
7 with the Secretary such information as the corpora-
8 tion or limited liability company would be required
9 to provide the State if such State had a formation
10 system described under subsection (b).

11 “(2) DISCLOSURE OF BENEFICIAL OWNERSHIP
12 INFORMATION.—Beneficial ownership information
13 reported to the Secretary of the Treasury pursuant
14 to paragraph (1) shall be provided by the Secretary
15 of the Treasury upon receipt of—

16 “(A) a civil or criminal subpoena or sum-
17 mons from a State agency, Federal agency, or
18 congressional committee or subcommittee re-
19 questing such information;

20 “(B) a written request made by a Federal
21 agency on behalf of another country under an
22 international treaty, agreement, or convention,
23 or an order under section 3512 of title 18,
24 United States Code, or section 1782 of title 28,

1 United States Code, issued in response to a re-
2 quest for assistance from a foreign country; or

3 “(C) a written request made by the Finan-
4 cial Crimes Enforcement Network of the De-
5 partment of the Treasury.

6 “(3) LIMITATION.—In issuing regulations pur-
7 suant to paragraph (1), the Secretary shall not re-
8 quire such information to be filed with the Internal
9 Revenue Service.

10 “(b) FORMATION SYSTEM.—

11 “(1) IN GENERAL.—With respect to a State, a
12 formation system is described under this subsection
13 if it meets the following requirements:

14 “(A) IDENTIFICATION OF BENEFICIAL
15 OWNERS.—Except as provided in paragraphs
16 (2) and (4), and subject to paragraph (3), each
17 applicant to form a corporation or limited liabil-
18 ity company under the laws of the State is re-
19 quired to provide to the State during the forma-
20 tion process a list of the beneficial owners of
21 the corporation or limited liability company
22 that—

23 “(i) except as provided in subpara-
24 graph (F), identifies each beneficial owner
25 by—

1 “(I) name;

2 “(II) current residential or busi-
3 ness street address; and

4 “(III) a unique identifying num-
5 ber from a nonexpired passport issued
6 by the United States or a nonexpired
7 drivers license issued by a State; and

8 “(ii) if the applicant is not the bene-
9 ficial owner, provides the identification in-
10 formation described in clause (i) relating
11 to the applicant.

12 “(B) UPDATED INFORMATION.—For each
13 corporation or limited liability company formed
14 under the laws of the State—

15 “(i) the corporation or limited liability
16 company is required by the State to update
17 the list of the beneficial owners of the cor-
18 poration or limited liability company by
19 providing the information described in sub-
20 paragraph (A) to the State not later than
21 60 days after the date of any change in the
22 list of beneficial owners or the information
23 required to be provided relating to each
24 beneficial owner;

1 “(ii) in the case of a corporation or
2 limited liability company formed or ac-
3 quired by a formation agent and retained
4 by the formation agent as a beneficial
5 owner for transfer to another person, the
6 formation agent is required by the State to
7 submit to the State an updated list of the
8 beneficial owners and the information de-
9 scribed in subparagraph (A) for each such
10 beneficial owner not later than 10 days
11 after date on which the formation agent
12 transfers the corporation or limited liabil-
13 ity company to another person; and

14 “(iii) the corporation or limited liabil-
15 ity company is required by the State to
16 submit to the State an annual filing con-
17 taining the list of the beneficial owners of
18 the corporation or limited liability company
19 and the information described in subpara-
20 graph (A) for each such beneficial owner.

21 “(C) RETENTION OF INFORMATION.—Ben-
22 eficial ownership information relating to each
23 corporation or limited liability company formed
24 under the laws of the State is required to be
25 maintained by the State until the end of the 5-

1 year period beginning on the date that the cor-
2 poration or limited liability company terminates
3 under the laws of the State.

4 “(D) INFORMATION REQUESTS.—Bene-
5 ficial ownership information relating to each
6 corporation or limited liability company formed
7 under the laws of the State shall be provided by
8 the State upon receipt of—

9 “(i) a civil or criminal subpoena or
10 summons from a State agency, Federal
11 agency, or congressional committee or sub-
12 committee requesting such information;

13 “(ii) a written request made by a Fed-
14 eral agency on behalf of another country
15 under an international treaty, agreement,
16 or convention, or section 1782 of title 28,
17 United States Code; or

18 “(iii) a written request made by the
19 Financial Crimes Enforcement Network.

20 “(E) NO BEARER SHARE CORPORATIONS
21 OR LIMITED LIABILITY COMPANIES.—A cor-
22 poration or limited liability company formed
23 under the laws of the State may not issue a cer-
24 tificate in bearer form evidencing either a whole

1 or fractional interest in the corporation or lim-
2 ited liability company.

3 “(2) STATES THAT LICENSE FORMATION
4 AGENTS.—

5 “(A) IN GENERAL.—Notwithstanding para-
6 graph (1), a State described in subparagraph
7 (B) may permit an applicant to form a corpora-
8 tion or limited liability company under the laws
9 of the State, or a corporation or limited liability
10 company formed under the laws of the State, to
11 provide the required information to a licensed
12 formation agent residing in the State, instead
13 of to the State directly, if the application under
14 paragraph (1)(A) or the update under para-
15 graph (1)(B) contains—

16 “(i) the name, current business ad-
17 dress, contact information, and licensing
18 number of the licensed formation agent
19 that has agreed to maintain the informa-
20 tion required under this subsection; and

21 “(ii) a certification by the licensed
22 formation agent that the licensed forma-
23 tion agent has possession of the informa-
24 tion required under this subsection and
25 will maintain the information in the State

1 licensing the licensed formation agent in
2 accordance with State law.

3 “(B) STATES DESCRIBED.—A State de-
4 scribed in this subparagraph is a State that
5 maintains a formal licensing system for forma-
6 tion agents that requires a formation agent to
7 register with the State, meet standards for fit-
8 ness and honesty, maintain a physical office
9 and records within the State, undergo regular
10 monitoring, and be subject to sanctions for non-
11 compliance with State requirements.

12 “(C) LICENSED FORMATION AGENT DU-
13 TIES.—A licensed formation agent that receives
14 beneficial ownership information under State
15 law in accordance with this paragraph shall—

16 “(i) maintain the information in the
17 State in which the corporation or limited
18 liability company is being or has been
19 formed in the same manner as required for
20 States under paragraph (1)(C);

21 “(ii) provide the information under
22 the same circumstances as required for
23 States under paragraph (1)(D); and

24 “(iii) perform the duties of a forma-
25 tion agent under paragraph (3).

1 “(D) TERMINATION OF RELATIONSHIP.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii), a licensed formation
4 agent that receives beneficial ownership in-
5 formation relating to a corporation or lim-
6 ited liability company under State law in
7 accordance with this paragraph and that
8 resigns, dissolves, or otherwise ends a rela-
9 tionship with the corporation or limited li-
10 ability company shall promptly—

11 “(I) notify the State in writing
12 that the licensed formation agent has
13 resigned or ended the relationship;
14 and

15 “(II) transmit all beneficial own-
16 ership information relating to the cor-
17 poration or limited liability company
18 in the possession of the licensed for-
19 mation agent to the licensing State.

20 “(ii) EXCEPTION.—If a licensed for-
21 mation agent receives written instructions
22 from a corporation or limited liability com-
23 pany, the licensed formation agent may
24 transmit the beneficial ownership informa-
25 tion relating to the corporation or limited

1 liability company to another licensed for-
2 mation agent that is within the same State
3 and has agreed to maintain the informa-
4 tion in accordance with this section.

5 “(iii) NOTICE TO STATE.—If a li-
6 censed formation agent provides beneficial
7 ownership information to another licensed
8 formation agent under clause (ii), the li-
9 censed formation agent providing the infor-
10 mation shall promptly notify in writing the
11 State under the laws of which the corpora-
12 tion or limited liability company is formed
13 of the identity of the licensed formation
14 agent receiving the information.

15 “(3) CERTAIN BENEFICIAL OWNERS.—If an ap-
16 plicant to form a corporation or limited liability com-
17 pany or a beneficial owner, officer, director, or simi-
18 lar agent of a corporation or limited liability com-
19 pany who is required to provide identification infor-
20 mation under this subsection does not have a non-
21 expired passport issued by the United States or a
22 nonexpired drivers license or identification card
23 issued by a State, each application described in
24 paragraph (1)(A) and each update described in
25 paragraph (1)(B) shall include a certification by a

1 formation agent residing in the State that the for-
2 mation agent—

3 “(A) has obtained for each such person a
4 current residential or business street address
5 and a legible and credible copy of the pages of
6 a nonexpired passport issued by the government
7 of a foreign country bearing a photograph, date
8 of birth, and unique identifying information for
9 the person;

10 “(B) has verified the name, address, and
11 identity of each such person;

12 “(C) will provide the information described
13 in subparagraph (A) and the proof of
14 verification described in subparagraph (B) upon
15 request under the same circumstances as re-
16 quired for States under paragraph (1)(D); and

17 “(D) will retain the information and proof
18 of verification under this paragraph in the
19 State in which the corporation or limited liabil-
20 ity company is being or has been formed until
21 the end of the 5-year period beginning on the
22 date that the corporation or limited liability
23 company terminates under the laws of the
24 State.

25 “(4) EXEMPT ENTITIES.—

1 “(A) IN GENERAL.—A formation system
2 described in paragraph (1) shall require that an
3 application for an entity described in subpara-
4 graph (C) or (D) of subsection (d)(2) that is
5 proposed to be formed under the laws of a
6 State and that will be exempt from the bene-
7 ficial ownership disclosure requirements under
8 this subsection shall include in the application
9 a certification by the applicant, or a prospective
10 officer, director, or similar agent of the entity—

11 “(i) identifying the specific provision
12 of subsection (d)(2) under which the entity
13 proposed to be formed would be exempt
14 from the beneficial ownership disclosure re-
15 quirements under paragraphs (1), (2), and
16 (3);

17 “(ii) stating that the entity proposed
18 to be formed meets the requirements for
19 an entity described under such provision of
20 subsection (d)(2); and

21 “(iii) providing identification informa-
22 tion for the applicant or prospective offi-
23 cer, director, or similar agent making the
24 certification in the same manner as pro-
25 vided under paragraph (1) or (3).

1 “(B) EXISTING ENTITIES.—On and after
2 the date that is 2 years after the effective date
3 of the amendments to the formation system of
4 a State made to comply with this section, an
5 entity formed under the laws of the State be-
6 fore such effective date shall be considered to
7 be a corporation or limited liability company for
8 purposes of, and shall be subject to the require-
9 ments of, this subsection unless an officer, di-
10 rector, or similar agent of the entity submits to
11 the State a certification—

12 “(i) identifying the specific provision
13 of subsection (d)(2) under which the entity
14 is exempt from the requirements under
15 paragraphs (1), (2), and (3);

16 “(ii) stating that the entity meets the
17 requirements for an entity described under
18 such provision of subsection (d)(2); and

19 “(iii) providing identification informa-
20 tion for the officer, director, or similar
21 agent making the certification in the same
22 manner as provided under paragraph (1)
23 or (3).

24 “(C) EXEMPT ENTITIES HAVING OWNER-
25 SHIP INTEREST.—If an entity described in sub-

1 paragraph (C) or (D) of subsection (d)(2) has
2 or will have an ownership interest in a corpora-
3 tion or limited liability company formed or to be
4 formed under the laws of a State, the applicant,
5 corporation, or limited liability company in
6 which the entity has or will have the ownership
7 interest shall provide the information required
8 under this subsection relating to the entity, ex-
9 cept that the entity shall not be required to pro-
10 vide information regarding any natural person
11 who has an ownership interest in, exercises sub-
12 stantial control over, or receives substantial eco-
13 nomic benefits from the entity.

14 “(c) PENALTIES.—

15 “(1) IN GENERAL.—It shall be unlawful for—

16 “(A) any person to affect interstate or for-
17 eign commerce by—

18 “(i) knowingly providing, or attempt-
19 ing to provide, false or fraudulent bene-
20 ficial ownership information, including a
21 false or fraudulent identifying photograph,
22 to a State or licensed formation agent
23 under State law in accordance with this
24 section;

1 “(ii) willfully failing to provide com-
2 plete or updated beneficial ownership infor-
3 mation to a State or licensed formation
4 agent under State law in accordance with
5 this section; or

6 “(iii) knowingly disclosing the exist-
7 ence of a subpoena, summons, or other re-
8 quest for beneficial ownership information,
9 except—

10 “(I) to the extent necessary to
11 fulfill the authorized request; or

12 “(II) as authorized by the entity
13 that issued the subpoena, summons,
14 or other request; or

15 “(B) in the case of a formation agent,
16 knowingly failing to obtain or maintain credible,
17 legible, and updated beneficial ownership infor-
18 mation, including any required identifying pho-
19 tograph.

20 “(2) CIVIL AND CRIMINAL PENALTIES.—In ad-
21 dition to any civil or criminal penalty that may be
22 imposed by a State, any person who violates para-
23 graph (1)—

1 “(A) shall be liable to the United States
2 for a civil penalty of not more than \$10,000;
3 and

4 “(B) may be fined under title 18, United
5 States Code, imprisoned for not more than 3
6 years, or both.

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

8 “(1) BENEFICIAL OWNER.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘beneficial owner’
11 means a natural person who, directly or indi-
12 rectly—

13 “(i) exercises substantial control over
14 a corporation or limited liability company;
15 or

16 “(ii) has a substantial interest in or
17 receives substantial economic benefits from
18 the assets of a corporation or limited liabil-
19 ity company.

20 “(B) EXCEPTIONS.—The term ‘beneficial
21 owner’ shall not include—

22 “(i) a minor child;

23 “(ii) a person acting as a nominee,
24 intermediary, custodian, or agent on behalf
25 of another person;

1 “(iii) a person acting solely as an em-
2 ployee of a corporation or limited liability
3 company and whose control over or eco-
4 nomic benefits from the corporation or lim-
5 ited liability company derives solely from
6 the employment status of the person;

7 “(iv) a person whose only interest in
8 a corporation or limited liability company
9 is through a right of inheritance, unless
10 the person also meets the requirements of
11 subparagraph (A); or

12 “(v) a creditor of a corporation or
13 limited liability company, unless the cred-
14 itor also meets the requirements of sub-
15 paragraph (A).

16 “(2) CORPORATION; LIMITED LIABILITY COM-
17 PANY.—The terms ‘corporation’ and ‘limited liability
18 company’—

19 “(A) have the meanings given such terms
20 under the laws of the applicable State;

21 “(B) include any non-United States entity
22 eligible for registration or registered to do busi-
23 ness as a corporation or limited liability com-
24 pany under the laws of the applicable State;

1 “(C) do not include any entity that is, and
2 discloses in the application by the entity to
3 form under the laws of the State or, if the enti-
4 ty was formed before the date of the enactment
5 of this section, in a filing with the State under
6 State law—

7 “(i) a business concern that is an
8 issuer of a class of securities registered
9 under section 12 of the Securities Ex-
10 change Act of 1934 (15 U.S.C. 781) or
11 that is required to file reports under sec-
12 tion 15(d) of that Act (15 U.S.C. 78o(d));

13 “(ii) a business concern constituted or
14 sponsored by a State, a political subdivi-
15 sion of a State, under an interstate com-
16 pact between 2 or more States, by a de-
17 partment or agency of the United States,
18 or under the laws of the United States;

19 “(iii) a depository institution (as de-
20 fined in section 3 of the Federal Deposit
21 Insurance Act (12 U.S.C. 1813));

22 “(iv) a credit union (as defined in sec-
23 tion 101 of the Federal Credit Union Act
24 (12 U.S.C. 1752));

1 “(v) a bank holding company (as de-
2 fined in section 2 of the Bank Holding
3 Company Act of 1956 (12 U.S.C. 1841));

4 “(vi) a broker or dealer (as defined in
5 section 3 of the Securities Exchange Act of
6 1934 (15 U.S.C. 78c)) that is registered
7 under section 15 of the Securities Ex-
8 change Act of 1934 (15 U.S.C. 78o);

9 “(vii) an exchange or clearing agency
10 (as defined in section 3 of the Securities
11 Exchange Act of 1934 (15 U.S.C. 78c))
12 that is registered under section 6 or 17A
13 of the Securities Exchange Act of 1934
14 (15 U.S.C. 78f and 78q-1);

15 “(viii) an investment company (as de-
16 fined in section 3 of the Investment Com-
17 pany Act of 1940 (15 U.S.C. 80a-3)) or
18 an investment advisor (as defined in sec-
19 tion 202(11) of the Investment Advisors
20 Act of 1940 (15 U.S.C. 80b-2(11))), if the
21 company or adviser is registered with the
22 Securities and Exchange Commission, or
23 has filed an application for registration
24 which has not been denied, under the In-
25 vestment Company Act of 1940 (15 U.S.C.

1 80a–1 et seq.) or the Investment Advisor
2 Act of 1940 (15 U.S.C. 80b–1 et seq.);

3 “(ix) an insurance company (as de-
4 fined in section 2 of the Investment Com-
5 pany Act of 1940 (15 U.S.C. 80a–2));

6 “(x) a registered entity (as defined in
7 section 1a of the Commodity Exchange Act
8 (7 U.S.C. 1a)), or a futures commission
9 merchant, introducing broker, commodity
10 pool operator, or commodity trading advi-
11 sor (as defined in section 1a of the Com-
12 modity Exchange Act (7 U.S.C. 1a)) that
13 is registered with the Commodity Futures
14 Trading Commission;

15 “(xi) a public accounting firm reg-
16 istered in accordance with section 102 of
17 the Sarbanes-Oxley Act (15 U.S.C. 7212);

18 “(xii) a public utility that provides
19 telecommunications service, electrical
20 power, natural gas, or water and sewer
21 services, within the United States;

22 “(xiii) a church, charity, or nonprofit
23 entity that is described in section 501(c),
24 527, or 4947(a)(1) of the Internal Revenue
25 Code of 1986, has not been denied tax ex-

1 empt status, and has filed the most re-
2 cently due annual information return with
3 the Internal Revenue Service, if required to
4 file such a return;

5 “(xiv) any business concern that—

6 “(I) employs more than 20 em-
7 ployees on a full-time basis in the
8 United States;

9 “(II) files income tax returns in
10 the United States demonstrating more
11 than \$5,000,000 in gross receipts or
12 sales; and

13 “(III) has an operating presence
14 at a physical office within the United
15 States; or

16 “(xv) any corporation or limited liabil-
17 ity company formed and owned by an enti-
18 ty described in clause (i), (ii), (iii), (iv),
19 (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),
20 (xiii), or (xiv); and

21 “(D) do not include any individual busi-
22 ness concern or class of business concerns
23 which the Secretary of the Treasury, with the
24 written concurrence of the Attorney General of
25 the United States, has determined in writing

1 should be exempt from the requirements of sub-
2 section (a), because requiring beneficial owner-
3 ship information from the business concern
4 would not serve the public interest and would
5 not assist law enforcement efforts to detect,
6 prevent, or punish terrorism, money laundering,
7 tax evasion, or other misconduct.

8 “(3) FORMATION AGENT.—The term ‘formation
9 agent’ means a person who, for compensation—

10 “(A) acts on behalf of another person to
11 assist in the formation of a corporation or lim-
12 ited liability company under the laws of a State;
13 or

14 “(B) purchases, sells, or transfers the pub-
15 lic records that form a corporation or limited li-
16 ability company.”.

17 (2) RULEMAKING.—To carry out this Act and
18 the amendments made by this Act, the Secretary of
19 the Treasury, in consultation with the Secretary of
20 Homeland Security and the Attorney General of the
21 United States, may issue guidance or a rule to—

22 (A) clarify the definitions under section
23 5333(d) of title 31, United States Code, as
24 added by paragraph (1); and

1 (B) specify how to verify beneficial owner-
2 ship information or other identification infor-
3 mation for purposes of such section 5333, in-
4 cluding whether the verification procedures
5 specified in section 5333(b)(3) should apply to
6 all applicants under section 5333(b)(1) or
7 whether such verification process should require
8 the notarization of signatures.

9 (3) CONFORMING AMENDMENTS.—Title 31,
10 United States Code, is amended—

11 (A) in section 5321(a)—

12 (i) in paragraph (1), by striking “sec-
13 tions 5314 and 5315” each place it ap-
14 pears and inserting “sections 5314, 5315,
15 and 5333”; and

16 (ii) in paragraph (6), by inserting
17 “(except section 5333)” after “sub-
18 chapter” each place it appears; and

19 (B) in section 5322, by striking “section
20 5315 or 5324” each place it appears and insert-
21 ing “section 5315, 5324, or 5333”.

22 (4) TABLE OF CONTENTS.—The table of con-
23 tents of chapter 53 of title 31, United States Code,
24 is amended by inserting after the item relating to
25 section 5332 the following:

“Sec. 5333. Transparent incorporation practices.”.

1 (5) RESTRICTIONS ON PUBLIC ACCESS.—A
2 State may—

3 (A) restrict public access to all or any por-
4 tion of the beneficial ownership information
5 provided to the State as described under section
6 5332 of title 31, United States Code, as added
7 by this Act; and

8 (B) by statute, regulation, order, or inter-
9 pretation adopted or issued by the State after
10 the date of enactment of this Act, provide for
11 public access to all or any portion of such infor-
12 mation.

13 (6) NO DUTY OF VERIFICATION.—This Act and
14 the amendments made by this Act do not impose
15 any obligation on a State to verify the name, ad-
16 dress, or identity of a beneficial owner whose infor-
17 mation is submitted to such State under section
18 5333 of title 31, United States Code, as added by
19 this Act.

20 (b) FUNDING AUTHORIZATION.—

21 (1) IN GENERAL.—To carry out section 5333 of
22 title 31, United States Code, during the 3-year pe-
23 riod beginning on the date of enactment of this Act,
24 funds shall be made available to each State to pay

1 reasonable costs relating to compliance with the re-
2 quirements of such section.

3 (2) FUNDING SOURCES.—To protect the United
4 States against the misuse of United States corpora-
5 tions and limited liability companies with hidden
6 owners, funds shall be provided to each State to
7 carry out the purposes described in paragraph (1)
8 from one or more of the following sources:

9 (A) Upon application by a State, and with-
10 out further appropriation, the Secretary of the
11 Treasury shall make available to the State un-
12 obligated balances described in section
13 9703(g)(4)(B) of title 31, United States Code,
14 in the Department of the Treasury Forfeiture
15 Fund established under section 9703(a) of title
16 31, United States Code.

17 (B) Upon application by a State, after con-
18 sultation with the Secretary of the Treasury,
19 and without further appropriation, the Attorney
20 General of the United States shall make avail-
21 able to the State excess unobligated balances
22 (as defined in section 524(c)(8)(D) of title 28,
23 United States Code) in the Department of Jus-
24 tice Assets Forfeiture Fund established under
25 section 524(c) of title 28, United States Code.

1 (3) MAXIMUM AMOUNTS.—

2 (A) DEPARTMENT OF THE TREASURY.—

3 The Secretary of the Treasury may not make
4 available to States a total of more than
5 \$30,000,000 under paragraph (2)(A).

6 (B) DEPARTMENT OF JUSTICE.—The At-

7 torney General of the United States may not
8 make available to States a total of more than
9 \$10,000,000 under paragraph (2)(B).

10 (4) RULEMAKING.—Not later than the end of

11 the 180-day period beginning on the date of the en-
12 actment of this Act, the Secretary of the Treasury
13 and the Attorney General shall, jointly, issue regula-
14 tions setting forth the procedures for States to apply
15 for funds under this subsection, including deter-
16 mining which State measures should be funded to
17 assess, plan, develop, test, or implement relevant
18 policies, procedures, or system modifications.

19 (c) COMPLIANCE REPORT.—Nothing in this section

20 or the amendments made by this section authorizes the

21 Secretary of the Treasury to withhold from a State any

22 funding otherwise available to the State because of a fail-

23 ure by that State to comply with section 5333 of title 31,

24 United States Code. Not later than the end of the 42-

25 month period beginning on the date of the enactment of

1 this Act, the Comptroller General of the United States
2 shall submit to the Committee on Financial Services of
3 the House of Representatives and the Committee on
4 Homeland Security and Governmental Affairs of the Sen-
5 ate a report—

6 (1) identifying which States obtain beneficial
7 ownership information as described in such section
8 5333;

9 (2) with respect to each State that does not ob-
10 tain such information, whether corporations and lim-
11 ited liability companies formed under the laws of
12 such State are in compliance with such section 5333
13 and providing the specified beneficial ownership in-
14 formation to the Secretary of the Treasury; and

15 (3) whether the Department of the Treasury is
16 in compliance with such section 5333 and, if not,
17 what steps it must take to come into compliance
18 with this section.

19 (d) FEDERAL CONTRACTORS.—Not later than the
20 first day of the first full fiscal year beginning at least one
21 year after the date of the enactment of this Act, the Ad-
22 ministrator for Federal Procurement Policy shall revise
23 the Federal Acquisition Regulation maintained under sec-
24 tion 1303(a)(1) of title 41, United States Code, to require
25 any contractor who is subject to the requirement to dis-

1 close beneficial ownership information under section 5333
2 of title 31, United States Code, to provide the information
3 required to be disclosed under such section to the Federal
4 Government as part of any bid or proposal for a contract
5 with a value threshold in excess of the simplified acquisi-
6 tion threshold under section 134 of title 41, United States
7 Code.

8 (e) ANTI-MONEY LAUNDERING OBLIGATIONS OF
9 FORMATION AGENTS.—

10 (1) IN GENERAL.—Section 5312(a)(2) of title
11 31, United States Code, is amended—

12 (A) in subparagraph (Y), by striking “or”
13 at the end;

14 (B) by redesignating subparagraph (Z) as
15 subparagraph (AA); and

16 (C) by inserting after subparagraph (Y)
17 the following:

18 “(Z) any person who, for compensation—

19 “(i) acts on behalf of another person
20 to form, or assist in formation of, a cor-
21 poration or limited liability company under
22 the laws of a State; or

23 “(ii) purchases, sells, or transfers the
24 public records that form a corporation or
25 limited liability company; or”.

1 (2) DEADLINE FOR ANTI-MONEY LAUNDERING
2 RULE FOR FORMATION AGENTS.—

3 (A) PROPOSED RULE.—Not later than 120
4 days after the date of enactment of this Act,
5 the Secretary of the Treasury, in consultation
6 with the Attorney General of the United States
7 and the Commissioner of the Internal Revenue
8 Service, shall publish a proposed rule in the
9 Federal Register requiring persons described in
10 section 5312(a)(2)(Z) of title 31, United States
11 Code, as amended by this subsection, to estab-
12 lish anti-money laundering programs under sub-
13 section (h) of section 5318 of that title.

14 (B) FINAL RULE.—Not later than 270
15 days after the date of enactment of this Act,
16 the Secretary of the Treasury shall publish the
17 rule described in this subsection in final form in
18 the Federal Register.

19 (C) EXCLUSIONS.—Any rule promulgated
20 under this subsection shall exclude from the
21 category of persons involved in forming a cor-
22 poration or limited liability company—

23 (i) any government agency; and

24 (ii) any attorney or law firm that uses
25 a paid formation agent operating within

1 the United States to form the corporation
2 or limited liability company.

3 **SEC. 4. STUDIES AND REPORTS.**

4 (a) OTHER LEGAL ENTITIES.—Not later than 2
5 years after the date of enactment of this Act, the Comp-
6 troller General of the United States shall conduct a study
7 and submit to the Congress a report—

8 (1) identifying each State that has procedures
9 that enable persons to form or register under the
10 laws of the State partnerships, trusts, or other legal
11 entities, and the nature of those procedures;

12 (2) identifying each State that requires persons
13 seeking to form or register partnerships, trusts, or
14 other legal entities under the laws of the State to
15 provide information about the beneficial owners (as
16 that term is defined in section 5333(d)(1) of title
17 31, United States Code, as added by this Act) or
18 beneficiaries of such entities, and the nature of the
19 required information;

20 (3) evaluating whether the lack of available
21 beneficial ownership information for partnerships,
22 trusts, or other legal entities—

23 (A) raises concerns about the involvement
24 of such entities in terrorism, money laundering,

1 tax evasion, securities fraud, or other mis-
2 conduct; and

3 (B) has impeded investigations into enti-
4 ties suspected of such misconduct; and

5 (4) evaluating whether the failure of the United
6 States to require beneficial ownership information
7 for partnerships and trusts formed or registered in
8 the United States has elicited international criticism
9 and what steps, if any, the United States has taken
10 or is planning to take in response.

11 (b) EFFECTIVENESS OF INCORPORATION PRAC-
12 TICES.—Not later than 5 years after the date of enact-
13 ment of this Act, the Comptroller General of the United
14 States shall conduct a study and submit to the Congress
15 a report assessing the effectiveness of incorporation prac-
16 tices implemented under this Act and the amendments
17 made by this Act in—

18 (1) providing law enforcement agencies with
19 prompt access to reliable, useful, and complete bene-
20 ficial ownership information; and

21 (2) strengthening the capability of law enforce-
22 ment agencies to combat incorporation abuses, civil
23 and criminal misconduct, and detect, prevent, or

- 1 punish terrorism, money laundering, tax evasion, or
- 2 other misconduct.

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