

115TH CONGRESS
2D SESSION

H. R. 6068

To update dollar amount thresholds for certain currency transaction reports and suspicious activity reports, to improve the sharing of suspicious activity reports within a financial group, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2018

Mr. PEARCE (for himself and Mr. LUETKEMEYER) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To update dollar amount thresholds for certain currency transaction reports and suspicious activity reports, to improve the sharing of suspicious activity reports within a financial group, 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.**

4 This Act may be cited as the “Counter Terrorism and

5 Illicit Finance Act”.

1 **SEC. 2. UPDATING THRESHOLDS FOR CERTAIN CURRENCY**

2 **TRANSACTION REPORTS AND SUSPICIOUS**
3 **ACTIVITY REPORTS.**

4 (a) **THRESHOLDS FOR CERTAIN CURRENCY TRANS-**
5 **ACTION REPORTS.—**

6 (1) **IN GENERAL.**—Not later than the end of
7 the 180-day period beginning on the date of the en-
8 actment of this Act, the Secretary of the Treasury
9 shall revise regulations issued with respect to section
10 5313 of title 31, United States Code, to update each
11 \$10,000 threshold amount in such regulations to
12 \$30,000.

13 (2) **THRESHOLD FOR REPORTS RELATING TO**
14 **COINS AND CURRENCY RECEIVED IN NONFINANCIAL**
15 **TRADE OR BUSINESS.**—Section 5331 of title 31,
16 United States Code, is amended by striking
17 “\$10,000” each place such term appears in heading
18 or text and inserting “\$30,000”.

19 (b) **THRESHOLDS FOR SUSPICIOUS ACTIVITY RE-**
20 **PORTS.**—Not later than the end of the 180-day period be-
21 ginning on the date of the enactment of this Act, each
22 Federal department or agency that issues regulations with
23 respect to reports on suspicious transactions described
24 under section 5318(g) of title 31, United States Code,
25 shall update each \$5,000 threshold amount in such regula-

1 tions to \$10,000 and each \$2,000 threshold amount in
2 such regulation to \$3,000.

3 (c) UPDATING THE MONEY SERVICES BUSINESS
4 DEFINITION THRESHOLDS.—Not later than the end of the
5 180-day period beginning on the date of the enactment
6 of this Act, the Secretary of the Treasury shall revise sec-
7 tion 1010.100(ff) of title 31, Code of Federal Regulations,
8 to update each \$1,000 threshold amount in such regula-
9 tions to \$3,000.

10 **SEC. 3. STREAMLINING REQUIREMENTS FOR CURRENCY
11 TRANSACTION REPORTS AND SUSPICIOUS
12 ACTIVITY REPORTS.**

13 (a) REVIEW.—The Secretary of the Treasury (in con-
14 sultation with Federal law enforcement agencies, the Di-
15 rector of National Intelligence, and the Federal functional
16 regulators and in consultation with other relevant stake-
17 holders) shall undertake a formal review of the current
18 financial institution reporting requirements under the
19 Bank Secrecy Act and its implementing regulations and
20 propose changes to further reduce regulatory burdens, and
21 ensure that the information provided is of a “high degree
22 of usefulness” to law enforcement, as set forth under sec-
23 tion 5311 of title 31, United States Code.

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

- 1 (1) whether the timeframe for filing a sus-
2 picious activity report should be increased from 30
3 days;
- 4 (2) whether or not currency transaction report
5 and suspicious activity report thresholds should be
6 tied to inflation or otherwise periodically be ad-
7 justed;
- 8 (3) whether the circumstances under which a fi-
9 nancial institution determines whether to file a “con-
10 tinuing suspicious activity report”, or the processes
11 followed by a financial institution in determining
12 whether to file a “continuing suspicious activity re-
13 port” (or both) can be narrowed;
- 14 (4) analyzing the fields designated as “critical”
15 on the suspicious activity report form and whether
16 the number of fields should be reduced;
- 17 (5) the categories, types, and characteristics of
18 suspicious activity reports and currency transaction
19 reports that are of the greatest value to, and that
20 best support, investigative priorities of law enforce-
21 ment and national security personnel;
- 22 (6) the increased use of exemption provisions to
23 reduce currency transaction reports that are of little
24 or no value to law enforcement efforts;

- 1 (7) the most appropriate ways to promote fi-
2 nancial inclusion and address the adverse con-
3 sequences of financial institutions de-risking entire
4 categories of high-risk relationships, including char-
5 ities, embassy accounts, money service businesses (as
6 defined under section 1010.100(ff) of title 31, Code
7 of Federal Regulations), and correspondent banks;
- 8 (8) the current financial institution reporting
9 requirements under the Bank Secrecy Act and its
10 implementing regulations and guidance; and
- 11 (9) such other items as the Secretary deter-
12 mines appropriate.

13 (c) REPORT.—Not later than the end of the one year
14 period beginning on the date of the enactment of this Act,
15 the Secretary of the Treasury, in consultation with law
16 enforcement and persons subject to Bank Secrecy Act re-
17 quirements, shall issue a report to the Congress containing
18 all findings and determinations made in carrying out the
19 review required under subsection (a).

20 **SEC. 4. SHARING OF SUSPICIOUS ACTIVITY REPORTS WITH-**
21 **IN A FINANCIAL GROUP.**

22 (a) IN GENERAL.—
23 (1) SHARING WITH FOREIGN BRANCHES AND
24 AFFILIATES.—Section 5318(g) of title 31, United

1 States Code, is amended by adding at the end the
2 following:

3 “(5) SHARING WITH FOREIGN BRANCHES, SUB-
4 SIDIARIES, AND AFFILIATES.—

5 “(A) IN GENERAL.—Not later than 180
6 days after the date of the enactment of this
7 paragraph, the Secretary of the Treasury shall
8 issue rules permitting any financial institution
9 with a reporting obligation under this sub-
10 section to share information on reports under
11 this subsection with the institution’s foreign
12 branches, subsidiaries, and affiliates for the
13 purposes of combating illicit finance risks, not-
14 withstanding any other provision of law except
15 subparagraph (B).

16 “(B) EXCEPTION.—In issuing the regula-
17 tions required under subparagraph (A), the
18 Secretary may not permit a financial institution
19 to share information on reports under this sub-
20 section with a foreign branch, subsidiary, or af-
21 filiate located in a jurisdiction that—

22 “(i) is subject to countermeasures im-
23 posed by the Federal Government; or

1 “(ii) the Secretary has determined
2 cannot reasonably protect the privacy and
3 confidentiality of such information.”.

4 (2) NOTIFICATION PROHIBITIONS.—Section
5 5318(g)(2)(A) of title 31, United States Code, is
6 amended—

7 (A) in clause (i), by inserting after “trans-
8 action has been reported” the following: “or
9 otherwise reveal any information that would re-
10 veal that the transaction has been reported, in-
11 cluding materials prepared or used by the fi-
12 nancial institution for the purpose of identifying
13 and detecting potentially suspicious activity”;
14 and

15 (B) in clause (ii), by inserting after “trans-
16 action has been reported,” the following: “or
17 otherwise reveal any information that would re-
18 veal that the transaction has been reported, in-
19 cluding materials prepared or used by the fi-
20 nancial institution for the purpose of identifying
21 and detecting potentially suspicious activity.”.

22 (b) RULEMAKING.—Not later than the end of the
23 180-day period beginning on the date of enactment of this
24 Act, the Secretary of the Treasury shall issue regulations
25 to carry out the amendments made by this section.

1 **SEC. 5. FINCEN NO-ACTION LETTERS.**

2 Section 310 of title 31, United States Code, is
3 amended—

4 (1) by redesignating subsection (d) as sub-
5 section (e); and

6 (2) by inserting after subsection (c) the fol-
7 lowing:

8 “**(d) NO-ACTION LETTERS WITH RESPECT TO SPE-**
9 **CIFIC CONDUCT.—**

10 “(1) IN GENERAL.—The Director of FinCEN
11 shall issue regulations to establish a process for the
12 issuance of a no-action letter by FinCEN in re-
13 sponse to an inquiry from a person or group of per-
14 sons concerning the application of the Bank Secrecy
15 Act, the USA PATRIOT Act, or any other anti-
16 money laundering and counter terrorist financing
17 law or regulation to specific conduct, which shall in-
18 clude a statement as to whether or not FinCEN has
19 any intention of taking an enforcement or other reg-
20 ulatory action against the person or group with re-
21 spect to such conduct.

22 “(2) CONSULTATION.—In issuing the regula-
23 tions described under paragraph (1), the Secretary
24 shall consult with the Federal functional regulators
25 and such other Federal departments and agencies as
26 the Secretary determines appropriate.

1 “(3) RELIANCE ON NO-ACTION LETTER.—

2 “(A) LIABILITY.—Notwithstanding any
3 other provisions of law, except for paragraph
4 (5)(B), a person described under subparagraph
5 (B) who relies upon a no-action letter issued
6 under this subsection in accordance with the
7 provisions and findings of such letter shall not,
8 as a result, be subject to any regulatory action
9 or civil or criminal penalty under the Bank Se-
10 crecy Act, the USA PATRIOT Act, or any
11 other anti-money laundering and counter ter-
12 rorist financing law or regulation with respect
13 to the activity covered in the no-action letter.

14 “(B) PERSONS COVERED.—A person de-
15 scribed in this paragraph is—

16 “(i) any person involved in the specific
17 conduct that is the subject of the no-action
18 letter; and

19 “(ii) any person involved in conduct
20 which is indistinguishable in all its mate-
21 rial aspects from the specific conduct that
22 is the subject of the no-action letter.

23 “(4) FEES.—

24 “(A) IN GENERAL.—The Director of
25 FinCEN shall develop a system to charge a fee

1 for each request for a no-action letter made
2 under this subsection in an amount sufficient,
3 in the aggregate, to pay for the cost of carrying
4 out this subsection. Such system shall provide
5 for a lower fee for small business concerns and
6 small financial institutions compared to other
7 persons.

8 “(B) NOTICE AND COMMENT.—Not later
9 than 45 days after the date of the enactment of
10 this paragraph, the Director of FinCEN shall
11 publish a description of the fee system de-
12 scribed in subparagraph (A) in the Federal
13 Register and shall solicit comments from the
14 public for a period of 60 days after publication.

15 “(C) FINALIZATION.—The Director of
16 FinCEN shall publish a final description of the
17 fee system and implement such fee system not
18 later than 30 days after the end of the public
19 comment period described in subparagraph (B).

20 “(5) MODIFYING OR RESCINDING A NO-ACTION
21 LETTER.—

22 “(A) IN GENERAL.—The Director of
23 FinCEN may modify or rescind any no-action
24 letter issued under this subsection if—

1 “(i) in light of changes in statute, reg-
2 ulations, or policy the letter no longer sets
3 forth the interpretation of FinCEN with
4 respect to the content of the letter; or

5 “(ii) any fact or statement submitted
6 in the original inquiry is found to be mate-
7 rially inaccurate or incomplete.

8 “(B) NO RELIANCE ON RESCINDED LET-
9 TER.—Paragraph (3) shall not apply to the any
10 actions taken after the date that a no-action
11 letter is rescinded.

12 “(C) RETROACTIVE MODIFICATION OR RE-
13 SCISSION.—A no-action letter may be modified
14 or rescinded retroactively only with respect to
15 one or more parties to the original inquiry and
16 only if the Director of FinCEN determines
17 that—

18 “(i) a fact or statement in the original
19 inquiry was materially inaccurate or in-
20 complete;

21 “(ii) the requestor failed to notify in
22 writing FinCEN of a material change to
23 any fact or statement in the original re-
24 quest; or

1 “(iii) a party to the original inquiry
2 acted in bad faith when relying upon the
3 no-action letter.

4 “(D) NOTICE OF MODIFICATION AND RE-
5 SCISSION.—In the case that the Director of
6 FinCEN modifies or rescinds a no-action letter
7 under this subsection, the Director of FinCEN
8 shall—

9 “(i) provide notice of such modifica-
10 tion or rescission;

11 “(ii) establish a reasonable time pe-
12 riod, of not less than 90 days, in which im-
13 pacted persons may update their anti-
14 money laundering programs or processes to
15 achieve compliance with the Bank Secrecy
16 Act, the USA PATRIOT Act, or any other
17 anti-money laundering and counter ter-
18 rorist financing law or regulation.

19 “(6) DEFINITIONS.—For purposes of this sub-
20 section:

21 “(A) BANK SECRECY ACT.—The term
22 ‘Bank Secrecy Act’ means—

23 “(i) section 21 of the Federal Deposit
24 Insurance Act;

1 “(ii) chapter 2 of title I of Public Law
2 91–508; and

3 “(iii) subchapter II of chapter 53 of
4 this title.

5 “(B) FEDERAL FUNCTIONAL REGU-
6 LATOR.—The term ‘Federal functional regu-
7 lator’ has the meaning given that term under
8 section 5312 of title 31, United States Code.

9 “(C) SMALL BUSINESS CONCERN.—The
10 term ‘small business concern’ has the meaning
11 given under section 3 of the Small Business
12 Act.”.

13 **SEC. 6. REQUIRING TREASURY TO TAKE A MORE PROMI-**
14 **NENT ROLE IN COORDINATING AML/CFT POL-**
15 **ICY AND EXAMINATIONS ACROSS THE GOV-**
16 **ERNMENT.**

17 (a) PRIORITIES.—Not later than nine months after
18 the date of the enactment of this Act, and at least annu-
19 ally thereafter, the Secretary of the Treasury, acting
20 through the Office of Terrorism and Financial Intelligence
21 and the Financial Crimes Enforcement Network, in con-
22 sultation with relevant Federal law enforcement, the Di-
23 rector of National Intelligence, and any other Federal de-
24 partments and agencies that the Secretary of the Treasury
25 determines appropriate, shall establish and make public

1 its priorities for U.S. anti-money laundering and counter
2 terrorist financing policy.

3 (b) SUPERVISION AND EXAMINATION.—The incorpo-
4 ration by financial institutions of the priorities established
5 pursuant to subsection (a) into the programs established
6 by those financial institutions to meet obligations under
7 the Bank Secrecy Act, the USA PATRIOT Act, and other
8 anti-money laundering and counter terrorist financing
9 laws and regulations shall form the basis on which the
10 financial institutions are supervised and examined for
11 compliance with those obligations.

12 (c) RULE OF CONSTRUCTION.—Nothing in sub-
13 section (a) may be construed as releasing financial institu-
14 tions from the requirement to comply with obligations
15 under the Bank Secrecy Act and other Federal laws and
16 regulations.

17 (d) REPORT.—Not later than nine months after the
18 date of enactment of this Act, the Secretary of the Treas-
19 ury (in consultation with Federal law enforcement agen-
20 cies, the Director of National Intelligence, and the Federal
21 functional regulators) shall submit to the Committee on
22 Financial Services of the House of Representatives and
23 the Committee on Banking, Housing, and Urban Affairs
24 of the Senate a report containing—

- 1 (1) an analysis of the Secretary of the Treasury's delegation of examination authority under the Bank Secrecy Act, including the adequacy of the Department of the Treasury's resources, capacity, expertise, and ability to effectively carry out the purposes of the Bank Secrecy Act;
- 7 (2) an examination of whether the Secretary should de-delegate that authority with regard to certain financial institutions; and
- 10 (3) legislative, administrative, and other recommendations to strengthen the Department of the Treasury's authority to ensure an effective U.S. anti-money laundering and counter terrorist financing regime.

15 **SEC. 7. ENCOURAGING THE USE OF TECHNOLOGICAL INNOVATIONS.**

17 Section 5318(h) of title 31, United States Code, is
18 amended by adding at the end the following:

19 “(4) ENCOURAGING THE USE OF TECHNOLOGICAL INNOVATIONS.—

21 “(A) IN GENERAL.—The Secretary of the Treasury shall, in carrying out this subsection, encourage but not require the use of technological innovations that improve anti-money

1 laundering programs described under paragraph
2 (1).

3 “(B) SAFE HARBOR.—An anti-money laun-
4 dering program that meets the minimum re-
5 quirements described under paragraph (1) and
6 any minimum standards issued pursuant to
7 paragraph (2), shall not violate the require-
8 ments of this subsection by reason of any tech-
9 nological innovation used to carry out such pro-
10 gram.

11 “(C) RULE OF CONSTRUCTION.—Nothing
12 in subparagraph (A) may be construed as re-
13 leasing financial institutions from the require-
14 ment to comply with existing obligations under
15 the Bank Secrecy Act and other Federal laws
16 and regulations.”.

17 **SEC. 8. ASSESSING THE USEFULNESS OF BANK SECRECY**
18 **ACT REPORTING.**

19 (a) ANNUAL REPORT.—Not later than one year after
20 the date of enactment of this Act, and annually thereafter,
21 the Attorney General, in consultation with Federal law en-
22 forcement agencies and the Director of National Intel-
23 ligence, shall, to the extent practicable at the discretion
24 of the Attorney General, provide the Secretary of the

1 Treasury with statistics, metrics, and other information
2 on the use of such data, including—

3 (1) the extent to which such data is used for
4 terrorism versus non-terrorism related investigations
5 and, with respect to such non-terrorism related in-
6 vestigations, the most common types of laws to
7 which such investigations relate;

8 (2) the frequency with which such data contains
9 “actionable information” which leads to further law
10 enforcement procedures, including the use of a sub-
11 poena, warrant, or other legal process; and

12 (3) information on the extent to which arrests,
13 indictments, convictions, or plea bargains of actors
14 result from the use of such data.

15 (b) USE OF REPORT INFORMATION.—The Secretary
16 of the Treasury shall utilize the information reported
17 under subsection (a)—

18 (1) to help assess the usefulness of Bank Se-
19 crecy Act reporting to law enforcement;

20 (2) to enhance feedback and communications
21 with financial institutions and other entities subject
22 to Bank Secrecy Act requirements; and

23 (3) for such other purposes as the Secretary de-
24 termines appropriate.

1 **SEC. 9. 18-MONTH ENFORCEMENT SAFE HARBOR OF CDD**2 **RULE.**

3 No person shall be liable for any violation of the final
4 rule of the Department of the Treasury titled “Customer
5 Due Diligence Requirements for Financial Institutions”
6 (“CDD rule”) published May 11, 2016 (81 Fed. Reg.
7 29397), during the 18-month period beginning on May 11,
8 2018, so long as such person has made a good faith effort
9 to comply with such requirements.

10 **SEC. 10. STUDIES AND REPORTS.**

11 (a) **BENEFICIAL OWNERSHIP.**—Not later than 2
12 years after the date of enactment of this Act, the Comptroller
13 General of the United States shall conduct a study
14 and submit to the Congress a report—

15 (1) evaluating the effectiveness of the collection
16 of beneficial ownership information under the CDD
17 rule (as defined under section 9), including—

18 (A) whether law enforcement agencies have
19 had timely access to the information;

20 (B) the utility of such information in law
21 enforcement investigations or prosecutions;

22 (C) an analysis of the reporting burden
23 placed on financial institutions versus the utility
24 of such information being made available to law
25 enforcement; and

5 (2) assessing the effectiveness of incorporation
6 practices implemented under the CDD rule.

7 (b) COMPREHENSIVE COST-BENEFIT ANALYSIS.—

8 Not later than 2 years after the date of enactment of this
9 Act, the Comptroller General of the United States shall
10 conduct a study and submit to the Congress a report—

1 and related anti-money laundering laws and regula-
2 tions; and

3 (4) examining the costs borne and effect on ac-
4 cess to financial services for consumers and cus-
5 tomers as a result of financial institutions compli-
6 ance with the statutory and regulatory requirements
7 of the Bank Secrecy Act and related anti-money
8 laundering laws and regulations.

9 **SEC. 11. DEFINITIONS.**

10 For purposes of this Act:

11 (1) BANK SECRECY ACT.—The term “Bank Se-
12 crecy Act” means—

13 (A) section 21 of the Federal Deposit In-
14 surance Act;

15 (B) chapter 2 of title I of Public Law 91–
16 508; and

17 (C) subchapter II of chapter 53 of title 31,
18 United States Code.

19 (2) FEDERAL FUNCTIONAL REGULATOR.—The
20 term “Federal functional regulator” has the mean-
21 ing given that term under section 5312 of title 31,
22 United States Code.

1 (3) FINANCIAL INSTITUTION.—The term “fi-
2 nancial institution” has the meaning given that term
3 under section 5312 of title 31, United States Code.

