

117TH CONGRESS
1ST SESSION

H. R. 5525

To amend the Bank Secrecy Act to expand the scope and authorities of anti-money laundering safeguards under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2021

Mr. MALINOWSKI (for himself, Ms. SALAZAR, Mr. COHEN, Mr. WILSON of South Carolina, Ms. SPANBERGER, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Bank Secrecy Act to expand the scope and authorities of anti-money laundering safeguards under such Act, 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 “Establishing New Au-
5 thorities for Businesses Laundering and Enabling Risks
6 to Security Act” or the “ENABLERS Act”.

7 **SEC. 2. FINANCIAL INSTITUTION DEFINITION.**

8 (a) IN GENERAL.—Section 5312(a)(2) of title 31,
9 United States Code, as amended by the William M. (Mac)

1 Thornberry National Defense Authorization Act for Fiscal
2 Year 2021, is amended—

3 (1) by redesignating subparagraphs (Z) and
4 (AA) as subparagraphs (GG) and (HH), respec-
5 tively; and

6 (2) by inserting after subparagraph (Y) the fol-
7 lowing:

8 “(Z) a person engaged in the business of
9 providing investment advice for compensation;

10 “(AA) a person engaged in the trade in
11 works of art, antiques, or collectibles, including
12 a dealer, advisor, consultant, custodian, gallery,
13 auction house, museum, or any other person
14 who engages as a business in the solicitation or
15 the sale of works of art, antiques, or collect-
16 ibles;

17 “(BB) an attorney, law firm, or notary in-
18 volved in financial activity or related adminis-
19 trative activity on behalf of another person;

20 “(CC) a trust or company service provider,
21 including—

22 “(i) a person involved in forming a
23 corporation, limited liability company,
24 trust, foundation, partnership, or other
25 similar entity or arrangement;

1 “(ii) a person involved in acting as, or
2 arranging for another person to act as, a
3 registered agent, trustee, or nominee to be
4 a shareholder, officer, director, secretary,
5 partner, signatory, or other similar posi-
6 tion in relation to a person or arrange-
7 ment;

8 “(iii) a person involved in providing a
9 registered office, address, or other similar
10 service for a person or arrangement; or

11 “(iv) any other person providing trust
12 or company services, as defined by the Sec-
13 retary of the Treasury;

14 “(DD) a certified public accountant or
15 public accounting firm;

16 “(EE) a person engaged in the business of
17 public relations, marketing, communications, or
18 other similar services in such a manner as to
19 provide another person anonymity or
20 deniability;

21 “(FF) a person engaged in the business of
22 providing third-party payment services, includ-
23 ing payment processing, check consolidation,
24 cash vault services, or other similar services
25 designated by the Secretary of the Treasury;”.

1 (b) RULEMAKING.—

2 (1) IN GENERAL.—Not later than December 31,
3 2023—

4 (A) the Secretary of the Treasury shall re-
5 peal section 103.170 of title 31, Code of Fed-
6 eral Regulations (relating to exemptions for cer-
7 tain financial institutions);

8 (B) the Secretary of the Treasury shall
9 issue one or more rules to require all financial
10 institutions (as defined in section 5312(a)(2) of
11 title 31, United States Code) that have not al-
12 ready done so to—

13 (i) report suspicious transactions
14 under section 5318(g) of title 31, United
15 States Code;

16 (ii) establish anti-money laundering
17 programs under section 5318(h) of title
18 31, United States Code;

19 (iii) establish due diligence policies,
20 procedures, and controls under section
21 5318(i) of title 31, United States Code;
22 and

23 (iv) identify and verify their account
24 holders under section 5318(l) of title 31,
25 United States Code.

1 (2) TRUST OR COMPANY SERVICE PROVIDER.—

2 In promulgating a rule under paragraph (1)(B) to
3 implement subparagraph (CC) of section 5312(a)(2)
4 of title 31, United States Code, as added by sub-
5 section (a), the Secretary of Treasury shall exclude
6 from the category of covered persons—

7 (A) any government agency; and

8 (B) any attorney or law firm that uses a
9 paid trust or company service provider, includ-
10 ing any paid entity formation agent, operating
11 within the United States.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Subparagraphs (Z) through
14 (FF) of section 5312(a)(2) of title 31, United States
15 Code, as added by subsection (a), shall take effect
16 on December 31, 2023.

17 (2) LIMITATION ON EXEMPTIONS.—With re-
18 spect to a person described under subparagraphs (Z)
19 through (FF) of section 5312(a)(2) of title 31,
20 United States Code, as added by subsection (a), the
21 Secretary of the Treasury may not exempt such per-
22 son from any requirement under subchapter II of
23 chapter 53 of title 31, United States Code, including
24 any delay in such application.

1 (3) APPLICATION OF CERTAIN PROVISIONS.—

2 Any financial institution (as defined in section
3 5312(a)(2) of title 31, United States Code) that is
4 not already required to comply with subsections (g),
5 (h), (i), and (l) of section 5318 of title 31, United
6 States Code, shall do so on and after June 30, 2024,
7 whether or not a rule has been issued under sub-
8 section (b)(1)(B).

9 **SEC. 3. TREASURY TASK FORCE AND STRATEGY.**

10 (a) IN GENERAL.—The Secretary of the Treasury,
11 acting through the Director of the Financial Crimes En-
12 forcement Network, shall establish a task force to—

13 (1) develop an ambitious, comprehensive, and
14 multi-year United States Government strategy to
15 impose anti-money laundering safeguards on all nec-
16 essary gatekeeper professions;

17 (2) designate and authorize a Federal or State
18 agency to enforce anti-money laundering require-
19 ments for each type of financial institution defined
20 in section 5312(a)(2) of title 31, United States
21 Code; and

22 (3) advance the regulatory rulemaking required
23 under section 2(b) of this Act.

24 (b) GATEKEEPERS STRATEGY.—

1 (1) IN GENERAL.—Section 262 of the Coun-
2 tering America’s Adversaries Through Sanctions Act
3 (Public Law 115–44), is amended by inserting after
4 paragraph (10) the following:

5 “(11) GATEKEEPERS STRATEGY.—A description
6 of efforts to impose anti-money laundering safe-
7 guards on all necessary gatekeeper professions, in-
8 cluding art dealers, investment advisors, real estate
9 professionals, lawyers, accountants, trust or com-
10 pany service providers, public relations professionals,
11 dealers of luxury vehicles, money service businesses,
12 and other similar professions.”.

13 (2) UPDATE CLARIFICATION.—If, before the
14 date of the enactment of this Act, all updates to the
15 national strategy required by section 261(b) of the
16 Countering America’s Adversaries Through Sanc-
17 tions Act (Public Law 115–44) have been completed,
18 the President shall provide an additional update of
19 such national strategy to the Congress containing
20 the contents required under the amendment made by
21 paragraph (1).

22 **SEC. 4. REPORTING BY TITLE INSURANCE COMPANIES.**

23 (a) IN GENERAL.—Not later than 90 days after the
24 date of the enactment of this Act, the Secretary of the
25 Treasury shall promulgate a rule requiring a domestic title

1 insurance company to obtain, maintain, and report to the
2 Secretary information on the beneficial owners of entities
3 that purchase or sell residential or commercial real estate
4 in transactions in which the domestic title insurance com-
5 pany is involved.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary such
8 sums as may be necessary to carry out this section.

9 (c) DEFINITIONS.—In this section:

10 (1) BENEFICIAL OWNER.—The term “beneficial
11 owner”, with respect to an entity, has the meaning
12 as defined in section 5336 of subchapter II of chap-
13 ter 53 of title 31, United States Code.

14 (2) DOMESTIC TITLE INSURANCE COMPANY.—
15 The term “domestic title insurance company” has
16 the meaning given that term in regulations pre-
17 scribed by the Secretary.

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