

TIMELY DELIVERY OF BANK SECRECY ACT REPORTS ACT

JULY 20, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
 submitted the following

R E P O R T

[To accompany H.R. 7734]

The Committee on Financial Services, to whom was referred the bill (H.R. 7734) to amend title 31, United States Code, to require the timely production of reports to Congress under the Bank Secrecy Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Section-by-Section Analysis of the Legislation	3
Hearings	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
Statement of Performance Goals and Objectives	4
New Budget Authority and C.B.O. Cost Estimate	4
Committee Cost Estimate	4
Federal Mandates Statement	4
Advisory Committee Statement	4
Applicability to Legislative Branch	4
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	5
Duplicative Federal Programs	5
Changes to Existing Law	5

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Timely Delivery of Bank Secrecy Act Reports Act”.

SEC. 2. TIMELY PRODUCTION OF BANK SECRECY ACT REPORTS TO CONGRESS.

Section 5319 of title 31, United States Code, is amended—

- (1) by striking “The Secretary of the Treasury” and inserting the following:
“(a) IN GENERAL.—The Secretary of the Treasury”; and
(2) by adding at the end the following:
“(b) TIMELY PRODUCTION OF REPORTS TO CONGRESS.—
“(1) PRODUCTION BY THE SECRETARY.—Upon the request of the congressional committees or subcommittees of appropriate jurisdiction for any report filed under this subchapter, the Secretary of the Treasury shall deliver the requested report to the committee or subcommittee not later than 30 days after such request is made.
“(2) PRODUCTION BY A FINANCIAL INSTITUTION PURSUANT TO A SUBPOENA.—Upon subpoena by the congressional committees or subcommittees of appropriate jurisdiction, a financial institution shall deliver a report filed under this subchapter by the financial institution, and any information on which such report is based, to the committee or subcommittee not later than the return date specified for such report in the subpoena.”.

PURPOSE AND SUMMARY

On May 12, 2022, Representative Waters introduced H.R. 7734, the “Timely Delivery of Bank Secrecy Act Reports Act,” which would establish a time frame for the production of Bank Secrecy Act reports to Congress by requiring the Secretary of the Treasury to, upon the request of the congressional committees or subcommittees of appropriate jurisdiction, deliver Bank Secrecy Act (BSA) reports to Congress not later than the end of a 30-day period beginning on the date such information is requested. Similarly, it requires a financial institution to, upon a subpoena by the congressional committees or subcommittees of appropriate jurisdiction, deliver BSA reports not later than the return date specified for such reports in the subpoena.

BACKGROUND AND NEED FOR LEGISLATION

For decades, FinCEN, which is a Bureau of the Treasury Department, has cooperated with Congressional requests for Suspicious Activity Reports, and other materials (such as Currency Transaction Reports, Geographic Targeting Order reports, and Foreign Bank Account Reports, collectively known as “BSA reports,”) by providing such materials upon request in a timely manner. To the extent that Congress has requested this information, Congress has respected the fact that these materials are sensitive, and has handled the materials securely. BSA reports can be critical to Congressional investigations and Congress has never needed to exercise its subpoena authority in order to obtain this information from FinCEN.

Unfortunately, Treasury and FinCEN have recently severely restricted Congressional access to Suspicious Activity Reports by requiring Congressional staff to review all material in a reading room at Treasury, prohibiting the copying of materials for purposes of highlighting, ongoing reference, or margin notation, and restricting information collection to note taking. As an alternative, Treasury and FinCEN have offered to bring the material to the requesting Committee and then take the material back to Treasury when the review is completed. The restrictions that they have imposed upon Congressional access to SARs and related materials are unworkable given the complexity and amount of information contained in such materials, and severely impairs Congress’ responsibility to carry on its oversight work in a timely and effective fashion.

Treasury’s and FinCEN’s new restrictions are also out of conformance with the statutory language and legislative history of the provisions that established the SAR requirement and process. Financial institutions and government personnel were only prohibited from notifying the subject of a SAR that such a report had been filed. No legislative language, statutory provision, case law, or even any subsequent regulation issued by FinCEN prohibit government personnel or the financial institutions themselves from providing such materials to Congress.

This bill would ensure that Congress can obtain access to BSA reports without unnecessary and cumbersome restrictions, and can do so in a timely manner to continue its investigatory work.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

- This section establishes the short title of the bill as the “Timely Delivery of Bank Secrecy Act Reports Act.”

Section 2.

- Section 2(1) of the bill establishes a time frame for the production of Bank Secrecy Act reports to Congress by requiring the Secretary of the Treasury, upon the request of the congressional committees or subcommittees of appropriate jurisdiction, to deliver BSA reports to Congress not later than the end of a 30-day period beginning on the date such information is requested by Congress.
- Section 2(2) requires a financial institution, upon a subpoena by the congressional committees or subcommittees of appropriate jurisdiction, to deliver BSA reports to Congress not later than the return date specified for such reports in the subpoena.

HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services’ Full Committee held a hearing on April 28, 2022, to consider H.R. 7734 entitled, “Oversight of the Financial Crimes Enforcement Network.”

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 18, 2022 and ordered H.R. 7734 to be reported favorably to the House with an amendment in the nature of a substitute by a voice vote, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no roll call votes occurred during the Committee’s consideration of H.R. 7734.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Commit-

tee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 7734 are to establish a time frame for the production of Bank Secrecy Act reports to Congress by requiring the Secretary of the Treasury to, upon the request of the congressional committees or subcommittees of appropriate jurisdiction, deliver BSA reports to Congress not later than the end of a 30-day period beginning on the date such information is requested and to require a financial institution to, upon a subpoena by the congressional committees or subcommittees of appropriate jurisdiction, deliver BSA reports not later than the return date specified for such reports in the subpoena.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested an estimate from the Director of the Congressional Budget Office. CBO was unable to provide an estimate in a timely manner.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 7734. After careful review, including discussions with the Congressional Budget Office, the Committee estimates that H.R. 7734 would have an insignificant impact on spending.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts its own the estimate of federal mandates regarding H.R. 7734, as amended.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 7734, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7734 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 7734 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 7734, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

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SUBTITLE IV—MONEY

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CHAPTER 53—MONETARY TRANSACTIONS

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SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

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§ 5319. Availability of reports

[The Secretary of the Treasury] (a) *IN GENERAL.*—*The Secretary of the Treasury* shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon request of the head of the agency or organization. The report shall be available for a purpose that is consistent with this

subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from search and disclosure under section 552 of title 5, and may not be disclosed under any State, local, tribal, or territorial “freedom of information”, “open government”, or similar law.

(b) TIMELY PRODUCTION OF REPORTS TO CONGRESS.—

(1) PRODUCTION BY THE SECRETARY.—Upon the request of the congressional committees or subcommittees of appropriate jurisdiction for any report filed under this subchapter, the Secretary of the Treasury shall deliver the requested report to the committee or subcommittee not later than 30 days after such request is made.

(2) PRODUCTION BY A FINANCIAL INSTITUTION PURSUANT TO A SUBPOENA.—Upon subpoena by the congressional committees or subcommittees of appropriate jurisdiction, a financial institution shall deliver a report filed under this subchapter by the financial institution, and any information on which such report is based, to the committee or subcommittee not later than the return date specified for such report in the subpoena.

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