

FINCEN OVERSIGHT AND ACCOUNTABILITY ACT OF 2023

DECEMBER 13, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 5472]

The Committee on Financial Services, to whom was referred the bill (H.R. 5472) to make improvements to the Financial Crimes Enforcement Network, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “FinCEN Oversight and Accountability Act of 2023”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONGRESSIONAL OVERSIGHT

Sec. 101. Information for constitutional functions of Congress.

TITLE II—FINCEN ACCOUNTABILITY

Sec. 201. Transparency with controlling documents.

Sec. 202. Testimony by the Director of FinCEN.

TITLE III—SMALL BUSINESS WORKING GROUP

Sec. 301. Small Business Working Groups.

TITLE I—CONGRESSIONAL OVERSIGHT

SEC. 101. INFORMATION FOR CONSTITUTIONAL FUNCTIONS OF CONGRESS.

(a) KEEPING CONGRESS INFORMED.—The Secretary of the Treasury shall keep the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate fully and currently informed of the activities of the Financial Crimes Enforcement Network, including any significant anticipated activity of such Network.

(b) REPORT OF UNLAWFUL ACTIVITY AND CORRECTIVE ACTION.—The Secretary of the Treasury shall report promptly to the Committee on Financial Services of the

House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any unlawful activity of the Financial Crimes Enforcement Network and any corrective action taken or planned to address that activity and prevent such activity in the future.

TITLE II—FINCEN ACCOUNTABILITY

SEC. 201. TRANSPARENCY WITH CONTROLLING DOCUMENTS.

(a) DEFINITION OF CONTROLLING DOCUMENT.—As used in this section, the term “controlling document” refers to any record (as defined in section 3301 of title 44, United States Code) issued by or under the authority of the Secretary, Deputy Secretary, Under Secretary for Enforcement, or any other officer or employee of the Department of the Treasury, that delegates authority to the Financial Crimes Enforcement Network or its Director in the implementation of section 310 of title 31, United States Code, or the Bank Secrecy Act.

(b) DISCLOSURE TO CONGRESS.—The Secretary of the Treasury shall promptly provide to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

- (1) controlling documents in force as of the date of the enactment of this Act;
- (2) any controlling documents issued thereafter; and
- (3) any changes to controlling documents described in paragraphs (1) and (2) made thereafter, including any revocations thereof.

(c) DISCLOSURE TO THE PUBLIC.—The Secretary of the Treasury shall make available promptly to the public the controlling documents and changes that the Secretary is required to provide to the committees listed in subsection (b), excluding such reasonably segregable portions of controlling documents or changes as would fall within an exemption in section 552(b) of title 5, United States Code.

(d) BANK SECRECY ACT DEFINED.—In this section, the term “Bank Secrecy Act” means—

- (1) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);
- (2) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and
- (3) subchapter II of chapter 53 of title 31, United States Code.

SEC. 202. TESTIMONY BY THE DIRECTOR OF FINCEN.

Section 5336(c)(11)(A) of title 31, United States Code, is amended by striking “5 years” and inserting “10 years”.

TITLE III—SMALL BUSINESS WORKING GROUP

SEC. 301. SMALL BUSINESS WORKING GROUPS.

(a) IN GENERAL.—Section 310(g)(5)(A) of title 31, United States Code, is amended—

- (1) in clause (vi) by striking “and” at the end;
- (2) in clause (vii) by striking the period at the end and inserting “; and”; and
- (3) by inserting the following at the end:

“(viii) each year, hold a small business working group to—

“(I) share information about the effectiveness of beneficial ownership information;

“(II) promote coordination between FinCEN and the small business community; and

“(III) provide guidance to small businesses about beneficial ownership reporting obligations.”.

(b) APPROPRIATIONS.—No amounts may be appropriated to carry out the amendments made by subsection (a).

PURPOSE AND SUMMARY

Introduced on September 14, 2023, by Representative Warren Davidson, H.R. 5472, the *FinCEN Oversight and Accountability Act of 2023*, would provide the House Financial Services Committee (Committee) with prompt notification of any unlawful activity, such as security breaches, carried out by the Financial Crimes Enforcement Network (FinCEN) or employees of FinCEN. This includes any corrective action taken by the Director of FinCEN or the Sec-

retary of the Department of the Treasury (Treasury). Prompt notification will ensure that the Committee can act accordingly and not learn about unlawful activity, such as leaks of protected financial information, from the media.

Additionally, this legislation would require Treasury to provide the essential controlling documents to help the Committee better understand the powers that the Treasury Department has delegated to FinCEN and how FinCEN utilizes these authorities.

Finally, to properly prepare small businesses for their forthcoming compliance with the beneficial ownership reporting regime, H.R. 5472 would require FinCEN to hold an annual Small Business Working Group that will meet to share information about the effectiveness of beneficial ownership practices and promote coordination between FinCEN and the small business community. The working group would help provide guidance to small businesses about beneficial ownership reporting obligations. This work would be carried out without any additional appropriations.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 5472 is comprised of parts of following bills:

H.R. 4107, the *Civil Liberties Protection Act of 2023*, introduced by Representative Warren Davidson

H.R. 2963, the *FinCEN Accountability Act of 2023*, introduced by Representative Barry Loudermilk

H.R. 5422, the *Small Business Working Group Act*, introduced by Representative Roger Williams

Title I—Title I consists of Section 3 of H.R. 4107, the *Civil Liberties Protection Act of 2023*

Title I requires the Secretary of the Treasury to keep the House Financial Services and Senate Banking Committees informed of FinCEN activities. Additionally, the Secretary of the Treasury must promptly report to the House Financial Services and Senate Banking Committees any unlawful activity occurring at FinCEN along with any corrective activity taken or planned.

Title II—Title II consists of H.R. 2963, the *FinCEN Accountability Act of 2023*

Title II ensures that the House Financial Services and the Senate Banking Committees have access to Department of the Treasury documents providing authorization or instructions to FinCEN or its Director, including any changes made to such documents from time to time.

Subsection (a) defines the controlling documents that FinCEN must provide to the House Financial Services and the Senate Banking Committees. It incorporates the definition of “record” used in administering statutes governing federal records (44 U.S.C. 3301). The subsection identifies the controlling documents as records issued by the Secretary of the Treasury or other officials of the Treasury Department that delegate authority, or give instructions, to FinCEN or the Director of FinCEN when implementing the statute establishing FinCEN as a Treasury bureau (31 U.S.C. 310) or the Bank Secrecy Act (section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), chapter 2 of title I of Public Law

91–508 (12 U.S.C. 1951 et seq.), and subchapter II of chapter 53 of title 31 of the U.S. Code).

Subsection (b) requires the Secretary of the Treasury to provide to the House Financial Services and the Senate Banking Committees copies of all “controlling documents” as defined in subsection (a), and any changes to the controlling documents, including revocations. Subsection (b) ensures that both the House Financial Services and the Senate Banking Committees will have full and timely information of departmental delegations of authority, and departmental instructions, to FinCEN or its Director. Such information will assist the Committees in ensuring that FinCEN activities remain within its appropriate limits and in formulating any legislation needed to govern such activities.

Title III—Title III consists of H.R. 5422, the *Small Business Working Group Act*

Title III will create the Small Business Working Group that will be carried out annually by the newly established domestic liaisons. The working group will provide an opportunity for small businesses to understand the purpose and benefit of beneficial ownership and promote coordination between FinCEN and the small business community.

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 5472: The Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the Committee on Financial Services held a hearing on April 27, 2023, titled “Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI).”

The Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the Committee on Financial Services held a hearing on July 18, 2023, titled “Potential Consequences of FinCEN’s Beneficial Ownership Rulemaking.”

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 20, 2023, and ordered H.R. 5472 to be reported favorably to the House as amended by a recorded vote of 46 ayes to 0 nays (Record vote no. FC–99), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Davidson by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 5472 was ordered reported favorably to the House as amended by a recorded vote of 46 ayes to 0 nays (Record vote no. FC–99), a quorum being present.

Record vote no. FC- 99

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	—	—	Ms. Waters	X	—	—
Mr. Hill	X	—	—	Mrs. Velázquez	—	—	—
Mr. Lucas	—	—	—	Mr. Sherman	X	—	—
Mr. Sessions	—	—	—	Mr. Meeks	X	—	—
Mr. Posey	X	—	—	Mr. Scott	X	—	—
Mr. Luetkemeyer	X	—	—	Mr. Lynch	X	—	—
Mr. Huelskamp	X	—	—	Mr. Green	X	—	—
Mrs. Wagner	X	—	—	Mr. Cleaver	X	—	—
Mr. Barr	X	—	—	Mr. Himes	X	—	—
Mr. Williams (TX)	X	—	—	Mr. Foster	X	—	—
Mr. Emmer	X	—	—	Mrs. Beatty	X	—	—
Mr. Loudermilk	X	—	—	Mr. Vargas	X	—	—
Mr. Mooney	X	—	—	Mr. Gottheimer	X	—	—
Mr. Davidson	X	—	—	Mr. Gonzalez	X	—	—
Mr. Rose	X	—	—	Mr. Casten	X	—	—
Mr. Steil	X	—	—	Ms. Pressley	X	—	—
Mr. Timmons	X	—	—	Mr. Horsford	—	—	—
Mr. Norman	—	—	—	Ms. Tlaib	X	—	—
Mr. Meuser	X	—	—	Mr. Torres	—	—	—
Mr. Fitzgerald	X	—	—	Ms. Garcia	X	—	—
Mr. Garbarino	X	—	—	Ms. Williams (GA)	X	—	—
Mrs. Kim	X	—	—	Mr. Nickel	X	—	—
Mr. Donalds	X	—	—	Ms. Pettersen	X	—	—
Mr. Flood	X	—	—				
Mr. Lawler	X	—	—				
Mr. Nunn	X	—	—				
Ms. De La Cruz	X	—	—				
Mrs. Houchin	X	—	—				
Mr. Ogles	X	—	—				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 5472 is to provide the House Financial Services Committee with prompt notification of any unlawful activity carried out by FinCEN or employees of FinCEN. Further, it will provide essential controlling documents to help the Committee better understand the powers that the Treasury Department has delegated to FinCEN, and how FinCEN utilizes these authorities. Finally, H.R. 5472 will require FinCEN to hold an annual Small Business Working Group that will meet to share information about the effectiveness of beneficial ownership practices and promote coordination between FinCEN and the small business community.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee adopts the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

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 the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “FinCEN Oversight and Accountability Act of 2023”.

TITLE I—CONGRESSIONAL OVERSIGHT

Sec. 101. Information for constitutional functions of Congress

The Secretary of the Treasury must keep the House Financial Services and Senate Banking Committees informed of FinCEN activities.

The Secretary of the Treasury must promptly report to the House Financial Services and Senate Banking Committees any unlawful activity of FinCEN, along with any corrective activity taken or planned.

TITLE II—FINCEN ACCOUNTABILITY

Sec. 201. Transparency with controlling documents

The Secretary of the Treasury must promptly provide to the House Financial Services and Senate Banking Committees controlling documents in force at the enactment of this Act, future controlling documents, and any changes to controlling documents.

The Secretary of the Treasury shall make controlling documents and changes available to the public, excluding those that fall within an exception in section 552(b) of title 5, U.S. Code.

Sec. 202. Testimony by the Director of FinCEN

Amends existing legislation, extending the requirement of the FinCEN Director to testify annually before the House Financial Services and the Senate Banking Committees from 2026 to 2031.

TITLE III—SMALL BUSINESS WORKING GROUP

Sec. 301. Small Business Working Group

Amends Title 31 U.S. Code, Section 310 to require FinCEN to hold an annual Small Business Working Group to share information about the effectiveness of beneficial ownership and promote co-

ordination between FinCEN and the small business community and provide guidance to small businesses about beneficial ownership reporting obligations. No amounts may be appropriated for this purpose.

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 I—GENERAL

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CHAPTER 3—DEPARTMENT OF THE TREASURY

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SUBCHAPTER I—ORGANIZATION

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§ 310. Financial Crimes Enforcement Network

(a) **IN GENERAL.**—The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105–08, in this section referred to as “FinCEN”) on April 25, 1990, shall be a bureau in the Department of the Treasury.

(b) **DIRECTOR.**—

(1) **APPOINTMENT.**—The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

(2) **DUTIES AND POWERS.**—The duties and powers of the Director are as follows:

(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act.

(ii) Information regarding national and international currency flows.

(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

(iv) Other privately and publicly available information.

(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement to—

(i) identify possible criminal activity to appropriate Federal, State, local, Tribal, and foreign law enforcement agencies;

(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(iii) identify possible instances of noncompliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

(v) determine emerging trends and methods in money laundering and other financial crimes;

(vi) support the conduct of intelligence or counter-intelligence activities, including analysis, to protect against terrorism; and

(vii) support government initiatives against money laundering.

(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

(E) Furnish research, analytical, and informational services to financial institutions, appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, Tribal, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

(F) Assist Federal, State, local, Tribal, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

(J) Promulgate regulations under section 5318(h)(4)(D), as appropriate, to implement the government-wide anti-money laundering and countering the financing of terrorism priorities established by the Secretary of the Treasury under section 5318(h)(4)(A).

(K) Communicate regularly with financial institutions and Federal functional regulators that examine financial institutions for compliance with subchapter II of chapter 53 and regulations promulgated under that subchapter and law enforcement authorities to explain the United States Government’s anti-money laundering and countering the financing of terrorism priorities.

(L) Give and receive feedback to and from financial institutions, State bank supervisors, and State credit union supervisors (as those terms are defined in section 6003 of the Anti-Money Laundering Act of 2020) regarding the matters addressed in subchapter II of chapter 53 and regulations promulgated under that subchapter.

(M) Maintain money laundering and terrorist financing investigation financial experts capable of identifying, tracking, and analyzing financial crime networks and identifying emerging threats to support Federal civil and criminal investigations.

(N) Maintain emerging technology experts to encourage the development of and identify emerging technologies that can assist the United States Government or financial institutions in countering money laundering and the financing of terrorism.

(O) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

(c) REQUIREMENTS RELATING TO MAINTENANCE AND USE OF DATA BANKS.—The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide—

(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by FinCEN, including—

(A) the submission of reports through the Internet or other secure network, whenever possible;

(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining—

(A) who is to be given access to the information maintained by FinCEN;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

(d) FINCEN EXCHANGE.—

(1) ESTABLISHMENT.—The FinCEN Exchange is hereby established within FinCEN.

(2) PURPOSE.—The FinCEN Exchange shall facilitate a voluntary public-private information sharing partnership among law enforcement agencies, national security agencies, financial institutions, other relevant private sector entities, and FinCEN to—

(A) effectively and efficiently combat money laundering, terrorism financing, organized crime, and other financial crimes, including by promoting innovation and technical advances in reporting—

(i) under subchapter II of chapter 53 and the regulations promulgated under that subchapter; and

(ii) with respect to other anti-money laundering requirements;

(B) protect the financial system from illicit use; and

(C) promote national security.

(3) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and once every 2 years thereafter for the next 5 years, the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

(i) an analysis of the efforts undertaken by the FinCEN Exchange, which shall include an analysis of—

(I) the results of those efforts; and

(II) the extent and effectiveness of those efforts, including any benefits realized by law enforcement agencies from partnering with financial institutions and other relevant private sector entities, which shall be consistent with standards protecting sensitive information; and

(ii) any legislative, administrative, or other recommendations the Secretary may have to strengthen the efforts of the FinCEN Exchange.

- (B) CLASSIFIED ANNEX.—Each report under subparagraph (A) may include a classified annex.
- (4) INFORMATION SHARING REQUIREMENT.—Information shared under this subsection shall be shared—
- (A) in compliance with all other applicable Federal laws and regulations;
 - (B) in such a manner as to ensure the appropriate confidentiality of personal information; and
 - (C) at the discretion of the Director, with the appropriate Federal functional regulator, as defined in section 6003 of the Anti-Money Laundering Act of 2020.
- (5) PROTECTION OF SHARED INFORMATION.—
- (A) REGULATIONS.—FinCEN shall, as appropriate, promulgate regulations that establish procedures for the protection of information shared and exchanged between FinCEN and the private sector in accordance with this section, consistent with the capacity, size, and nature of the financial institution or other relevant private sector entity to which the particular procedures apply.
 - (B) USE OF INFORMATION.—
 - (i) USE BY FINANCIAL INSTITUTIONS.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve the financing of terrorism, money laundering, proliferation financing, or other financial crimes.
 - (ii) USE BY OTHER RELEVANT PRIVATE SECTOR ENTITIES.—Information received by a relevant private sector entity that is not a financial institution pursuant to this section shall not be used for any purpose other than assisting a financial institution in identifying and reporting on activities that may involve the financing of terrorism, money laundering, proliferation financing, or other financial crimes, or in assisting FinCEN or another agency of the Federal Government in mitigating the risk of the financing of terrorism, money laundering, proliferation financing, or other criminal activities.
 - (6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create new information sharing authorities or requirements relating to the Bank Secrecy Act.
- (e) SPECIAL HIRING AUTHORITY.—
- (1) IN GENERAL.—The Secretary of the Treasury may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, candidates directly to positions in the competitive service, as defined in section 2102 of that title, in FinCEN.
 - (2) PRIMARY RESPONSIBILITIES.—The primary responsibility of candidates appointed under paragraph (1) shall be to provide substantive support in support of the duties described in subparagraphs (A) through (O) of subsection (b)(2).
- (f) FINCEN DOMESTIC LIAISONS.—
- (1) ESTABLISHMENT OF OFFICE.—There is established in FinCEN an Office of Domestic Liaison, which shall be headed by the Chief Domestic Liaison.

(2) LOCATION.—The Office of the Domestic Liaison shall be located in the District of Columbia.

(g) CHIEF DOMESTIC LIAISON.—

(1) IN GENERAL.—The Chief Domestic Liaison, shall—

(A) report directly to the Director; and

(B) be appointed by the Director, from among individuals with experience or familiarity with anti-money laundering program examinations, supervision, and enforcement.

(2) COMPENSATION.—The annual rate of pay for the Chief Domestic Liaison shall be equal to the highest rate of annual pay for similarly situated senior executives who report to the Director.

(3) STAFF OF OFFICE.—The Chief Domestic Liaison, with the concurrence of the Director, may retain or employ counsel, research staff, and service staff, as the Liaison determines necessary to carry out the functions, powers, and duties under this subsection.

(4) DOMESTIC LIAISONS.—The Chief Domestic Liaison, with the concurrence of the Director, shall appoint not fewer than 6 senior FinCEN employees as FinCEN Domestic Liaisons, who shall—

(A) report to the Chief Domestic Liaison;

(B) each be assigned to focus on a specific region of the United States; and

(C) be located at an office in such region or co-located at an office of the Board of Governors of the Federal Reserve System in such region.

(5) FUNCTIONS OF THE DOMESTIC LIAISONS.—

(A) IN GENERAL.—Each Domestic Liaison shall—

(i) in coordination with relevant Federal functional regulators, perform outreach to BSA officers at financial institutions, including nonbank financial institutions, and persons that are not financial institutions, especially with respect to actions taken by FinCEN that require specific actions by, or have specific effects on, such institutions or persons, as determined by the Director;

(ii) in accordance with applicable agreements, receive feedback from financial institutions and examiners of Federal functional regulators regarding their examinations under the Bank Secrecy Act and communicate that feedback to FinCEN, the Federal functional regulators, and State bank supervisors;

(iii) promote coordination and consistency of supervisory guidance from FinCEN, the Federal functional regulators, State bank supervisors, and State credit union supervisors regarding the Bank Secrecy Act;

(iv) act as a liaison between financial institutions and their Federal functional regulators, State bank supervisors, and State credit union supervisors with respect to information sharing matters involving the Bank Secrecy Act and regulations promulgated thereunder;

(v) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Office of Domestic Liaison;

(vi) to the extent practicable, periodically propose to the Director changes in the regulations, guidance, or orders of FinCEN, including any legislative or administrative changes that may be appropriate to ensure improved coordination and expand information sharing under this paragraph; **[and]**

(vii) perform such other duties as the Director determines to be appropriate~~].~~; *and*

(viii) *each year, hold a small business working group to—*

(I) share information about the effectiveness of beneficial ownership information;

(II) promote coordination between FinCEN and the small business community; and

(III) provide guidance to small businesses about beneficial ownership reporting obligations.

(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph may be construed to permit the Domestic Liaisons to have authority over supervision, examination, or enforcement processes.

(6) **ACCESS TO DOCUMENTS.**—FinCEN, to the extent practicable and consistent with appropriate safeguards for sensitive enforcement-related, pre-decisional, or deliberative information, shall ensure that the Domestic Liaisons have full access to the documents of FinCEN, as necessary to carry out the functions of the Office of Domestic Liaison.

(7) **ANNUAL REPORTS.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection and every 2 years thereafter for 5 years, the Director shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Office of Domestic Liaison for the following fiscal year and the activities of the Office during the immediately preceding fiscal year.

(B) **CONTENTS.**—Each report required under subparagraph (A) shall include—

(i) appropriate statistical information and full and substantive analysis;

(ii) information on steps that the Office of Domestic Liaison has taken during the reporting period to address feedback received by financial institutions and examiners of Federal functional regulators relating to examinations under the Bank Secrecy Act;

(iii) recommendations to the Director for such administrative and legislative actions as may be appropriate to address information sharing and coordination issues encountered by financial institutions or examiners of Federal functional regulators; and

(iv) any other information, as determined appropriate by the Director.

(C) SENSITIVE INFORMATION.—Notwithstanding subparagraph (D), FinCEN shall review each report required under subparagraph (A) before the report is submitted to ensure the report does not disclose sensitive information.

(D) INDEPENDENCE.—

(i) IN GENERAL.—Each report required under subparagraph (A) shall be provided directly to the committees listed in that subparagraph, except that a relevant Federal functional regulator, State bank supervisor, Office of Management and Budget, or State credit union supervisor shall have an opportunity for review and comment before the submission of the report.

(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) may be construed to preclude FinCEN or any other department or agency from reviewing a report required under subparagraph (A) for the sole purpose of protecting—

(I) sensitive information obtained by a law enforcement agency; and

(II) classified information.

(E) CLASSIFIED INFORMATION.—No report required under subparagraph (A) may contain classified information.

(8) DEFINITION.—In this subsection, the term “Federal functional regulator” has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

(h) FINCEN FOREIGN FINANCIAL INTELLIGENCE UNIT LIAISONS.—

(1) IN GENERAL.—The Director of FinCEN shall appoint not fewer than 6 Foreign Financial Intelligence Unit Liaisons, who shall—

(A) be knowledgeable about domestic or international anti-money laundering or countering the financing of terrorism laws and regulations;

(B) possess a technical understanding of the Bank Secrecy Act, the protocols of the Egmont Group of Financial Intelligence Units, and the Financial Action Task Force and the recommendations issued by that Task Force;

(C) be co-located in a United States embassy, a similar United States Government facility, or a foreign government facility, as appropriate;

(D) facilitate capacity building and perform outreach with respect to anti-money laundering and countering the financing of terrorism regulatory and analytical frameworks;

(E) establish and maintain relationships with officials from foreign intelligence units, regulatory authorities, ministries of finance, central banks, law enforcement agencies, and other competent authorities;

(F) participate in industry outreach engagements with foreign financial institutions and other commercial actors on anti-money laundering and countering the financing of terrorism issues;

(G) coordinate with representatives of the Department of Justice at United States Embassies who perform similar functions on behalf of the United States Government; and
 (H) perform such other duties as the Director determines to be appropriate.

(2) COMPENSATION.—Each Foreign Financial Intelligence Unit Liaison appointed under paragraph (1) shall receive compensation at the higher of—

(A) the rate of compensation paid to a Foreign Service officer at a comparable career level serving at the same embassy or facility, as applicable; or
 (B) the rate of compensation that the Liaison would have otherwise received.

(i) PROTECTION OF INFORMATION OBTAINED BY FOREIGN LAW ENFORCEMENT AND FINANCIAL INTELLIGENCE UNITS; FREEDOM OF INFORMATION ACT.—

(1) DEFINITIONS.—In this subsection:

(A) FOREIGN ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AUTHORITY.—The term “foreign anti-money laundering and countering the financing of terrorism authority” means any foreign agency or authority that is empowered under foreign law to regulate or supervise foreign financial institutions (or designated non-financial businesses and professions) with respect to laws concerning anti-money laundering and countering the financing of terrorism and proliferation.

(B) FOREIGN FINANCIAL INTELLIGENCE UNIT.—The term “foreign financial intelligence unit” means any foreign agency or authority, including a foreign financial intelligence unit that is a member of the Egmont Group of Financial Intelligence Units, that is empowered under foreign law as a jurisdiction’s national center for—

(i) receipt and analysis of suspicious transaction reports and other information relevant to money laundering, associated predicate offenses, and the financing of terrorism; and

(ii) the dissemination of the results of the analysis described in clause (i).

(C) FOREIGN LAW ENFORCEMENT AUTHORITY.—The term “foreign law enforcement authority” means any foreign agency or authority that is empowered under foreign law to detect, investigate, or prosecute potential violations of law.

(2) INFORMATION EXCHANGED WITH FOREIGN LAW ENFORCEMENT AUTHORITIES, FOREIGN FINANCIAL INTELLIGENCE UNITS, AND FOREIGN ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AUTHORITIES.—

(A) IN GENERAL.—The Department of the Treasury may not be compelled to search for or disclose information exchanged with a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(B) INAPPLICABILITY OF FREEDOM OF INFORMATION ACT.—

(i) IN GENERAL.—Section 552(a)(3) of title 5 (commonly known as the “Freedom of Information Act”)

shall not apply to any request for records or information exchanged between the Department of the Treasury and a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority.

(ii) SPECIFICALLY EXEMPTED BY STATUTE.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of that section.

(C) CLARIFICATION ON INFORMATION LIMITATIONS AND PROTECTIONS.—

(i) IN GENERAL.—The provisions of this paragraph shall apply only to information necessary to exercise the duties and powers described under subsection (b).

(ii) APPROPRIATE CONFIDENTIALITY, CLASSIFICATION, AND DATA SECURITY REQUIREMENTS.—The Secretary, in consultation with the Director, shall ensure that information provided to a foreign law enforcement authority, foreign financial intelligence unit, or foreign anti-money laundering and countering the financing of terrorism authority, is subject to appropriate confidentiality, classification, and data security requirements.

(3) SAVINGS PROVISION.—Nothing in this section shall authorize the Department of the Treasury to withhold information from Congress, decline to carry out a search for information requested by Congress, or prevent the Department of the Treasury from complying with an order of a court of the United States in an action commenced by the United States.

(j) ANALYTICAL EXPERTS.—

(1) IN GENERAL.—FinCEN shall maintain financial experts capable of identifying, tracking, and tracing money laundering and terrorist-financing networks in order to conduct and support civil and criminal anti-money laundering and countering the financing of terrorism investigations conducted by the United States Government.

(2) FINCEN ANALYTICAL HUB.—FinCEN, upon a reasonable request from a Federal agency, shall, in collaboration with the requesting agency and the appropriate Federal functional regulator, analyze the potential anti-money laundering and countering the financing of terrorism activity that prompted the request.

(k) DEFINITIONS.—In this section:

(1) BANK SECRECY ACT.—The term “Bank Secrecy Act” has the meaning given the term in section 6003 of the Anti-Money Laundering Act of 2020.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term “Federal functional regulator” has the meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

(3) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given the term in section 5312 of this title.

(4) STATE BANK SUPERVISOR.—The term “State bank supervisor” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(5) STATE CREDIT UNION SUPERVISOR.—The term “State credit union supervisor” means a State official described in section 107A(e) of the Federal Credit Union Act (12 U.S.C. 1757a(e)).

(1) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to FinCEN to carry out this section, to remain available until expended—

- (A) \$136,000,000 for fiscal year 2021;
- (B) \$60,000,000 for fiscal year 2022; and
- (C) \$35,000,000 for each of fiscal years 2023 through 2026.

(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government’s ability to exploit the information in the FinCEN data banks, \$16,500,000.

(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, \$5,000,000.

(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, \$3,000,000.

(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, \$3,000,000.

(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, \$8,000,000.

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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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§ 5336. Beneficial ownership information reporting requirements

(a) DEFINITIONS.—In this section:

(1) ACCEPTABLE IDENTIFICATION DOCUMENT.—The term “acceptable identification document” means, with respect to an individual—

(A) a nonexpired passport issued by the United States;

(B) a nonexpired identification document issued by a State, local government, or Indian Tribe to the individual acting for the purpose of identification of that individual;

(C) a nonexpired driver’s license issued by a State; or

(D) if the individual does not have a document described in subparagraph (A), (B), or (C), a nonexpired passport issued by a foreign government.

(2) APPLICANT.—The term “applicant” means any individual who—

(A) files an application to form a corporation, limited liability company, or other similar entity under the laws of a State or Indian Tribe; or

(B) registers or files an application to register a corporation, limited liability company, or other similar entity formed under the laws of a foreign country to do business in the United States by filing a document with the secretary of state or similar office under the laws of a State or Indian Tribe.

(3) BENEFICIAL OWNER.—The term “beneficial owner”—

(A) means, with respect to an entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

(i) exercises substantial control over the entity; or

(ii) owns or controls not less than 25 percent of the ownership interests of the entity; and

(B) does not include—

(i) a minor child, as defined in the State in which the entity is formed, if the information of the parent or guardian of the minor child is reported in accordance with this section;

(ii) an individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual;

(iii) an individual acting solely as an employee of a corporation, limited liability company, or other similar entity and whose control over or economic benefits from such entity is derived solely from the employment status of the person;

(iv) an individual whose only interest in a corporation, limited liability company, or other similar entity is through a right of inheritance; or

(v) a creditor of a corporation, limited liability company, or other similar entity, unless the creditor meets the requirements of subparagraph (A).

(4) DIRECTOR.—The term “Director” means the Director of FinCEN.

(5) FINCEN.—The term “FinCEN” means the Financial Crimes Enforcement Network of the Department of the Treasury.

(6) FINCEN IDENTIFIER.—The term “FinCEN identifier” means the unique identifying number assigned by FinCEN to a person under this section.

(7) FOREIGN PERSON.—The term “foreign person” means a person who is not a United States person, as defined in section 7701(a) of the Internal Revenue Code of 1986.

(8) INDIAN TRIBE.—The term “Indian Tribe” has the meaning given the term “Indian tribe” in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130).

(9) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—The term “lawfully admitted for permanent residence” has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(10) POOLED INVESTMENT VEHICLE.—The term “pooled investment vehicle” means—

(A) any investment company, as defined in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)); or

(B) any company that—

(i) would be an investment company under that section but for the exclusion provided from that definition by paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and

(ii) is identified by its legal name by the applicable investment adviser in its Form ADV (or successor form) filed with the Securities and Exchange Commission.

(11) REPORTING COMPANY.—The term “reporting company”—

(A) means a corporation, limited liability company, or other similar entity that is—

(i) created by the filing of a document with a secretary of state or a similar office under the law of a State or Indian Tribe; or

(ii) formed under the law of a foreign country and registered to do business in the United States by the filing of a document with a secretary of state or a similar office under the laws of a State or Indian Tribe; and

(B) does not include—

(i) an issuer—

(I) of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or

(II) that is required to file supplementary and periodic information under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

(ii) an entity—

- (I) established under the laws of the United States, an Indian Tribe, a State, or a political subdivision of a State, or under an interstate compact between 2 or more States; and
- (II) that exercises governmental authority on behalf of the United States or any such Indian Tribe, State, or political subdivision;
- (iii) a bank, as defined in—
 - (I) section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);
 - (II) section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)); or
 - (III) section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a));
- (iv) a Federal credit union or a State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));
- (v) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) or a savings and loan holding company (as defined in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)));
- (vi) a money transmitting business registered with the Secretary of the Treasury under section 5330;
- (vii) a broker or dealer (as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 15 of that Act (15 U.S.C. 78o);
- (viii) an exchange or clearing agency (as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered under section 6 or 17A of that Act (15 U.S.C. 78f, 78q-1);
- (ix) any other entity not described in clause (i), (vii), or (viii) that is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);
- (x) an entity that—
 - (I) is an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) or an investment adviser (as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2)); and
 - (II) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) or the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.);
- (xi) an investment adviser—
 - (I) described in section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(l)); and
 - (II) that has filed Item 10, Schedule A, and Schedule B of Part 1A of Form ADV, or any successor thereto, with the Securities and Exchange Commission;

(xii) an insurance company (as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2));

(xiii) an entity that—

(I) is an insurance producer that is authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State; and

(II) has an operating presence at a physical office within the United States;

(xiv)(I) a registered entity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(II) an entity that is—

(aa)(AA) a futures commission merchant, introducing broker, swap dealer, major swap participant, commodity pool operator, or commodity trading advisor (as those terms are defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(BB) a retail foreign exchange dealer, as described in section 2(c)(2)(B) of that Act (7 U.S.C. 2(c)(2)(B)); and

(bb) registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(xv) a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212);

(xvi) a public utility that provides telecommunications services, electrical power, natural gas, or water and sewer services within the United States;

(xvii) a financial market utility designated by the Financial Stability Oversight Council under section 804 of the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5463);

(xviii) any pooled investment vehicle that is operated or advised by a person described in clause (iii), (iv), (vii), (x), or (xi);

(xix) any—

(I) organization that is described in section 501(c) of the Internal Revenue Code of 1986 (determined without regard to section 508(a) of such Code) and exempt from tax under section 501(a) of such Code, except that in the case of any such organization that loses an exemption from tax, such organization shall be considered to be continued to be described in this subclause for the 180-day period beginning on the date of the loss of such tax-exempt status;

(II) political organization (as defined in section 527(e)(1) of such Code) that is exempt from tax under section 527(a) of such Code; or

(III) trust described in paragraph (1) or (2) of section 4947(a) of such Code;

(xx) any corporation, limited liability company, or other similar entity that—

(I) operates exclusively to provide financial assistance to, or hold governance rights over, any entity described in clause (xix);

(II) is a United States person;

(III) is beneficially owned or controlled exclusively by 1 or more United States persons that are United States citizens or lawfully admitted for permanent residence; and

(IV) derives at least a majority of its funding or revenue from 1 or more United States persons that are United States citizens or lawfully admitted for permanent residence;

(xxi) any entity that—

(I) employs more than 20 employees on a full-time basis in the United States;

(II) filed in the previous year Federal income tax returns in the United States demonstrating more than \$5,000,000 in gross receipts or sales in the aggregate, including the receipts or sales of—

(aa) other entities owned by the entity; and

(bb) other entities through which the entity operates; and

(III) has an operating presence at a physical office within the United States;

(xxii) any corporation, limited liability company, or other similar entity of which the ownership interests are owned or controlled, directly or indirectly, by 1 or more entities described in clause (i), (ii), (iii), (iv), (v), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii) (xix), or (xxi);

(xxiii) any corporation, limited liability company, or other similar entity—

(I) in existence for over 1 year;

(II) that is not engaged in active business;

(III) that is not owned, directly or indirectly, by a foreign person;

(IV) that has not, in the preceding 12-month period, experienced a change in ownership or sent or received funds in an amount greater than \$1,000 (including all funds sent to or received from any source through a financial account or accounts in which the entity, or an affiliate of the entity, maintains an interest); and

(V) that does not otherwise hold any kind or type of assets, including an ownership interest in any corporation, limited liability company, or other similar entity;

(xxiv) any entity or class of entities that the Secretary of the Treasury, with the written concurrence of the Attorney General and the Secretary of Homeland Security, has, by regulation, determined should be exempt from the requirements of subsection (b) because

requiring beneficial ownership information from the entity or class of entities—

(I) would not serve the public interest; and

(II) would not be highly useful in national security, intelligence, and law enforcement agency efforts to detect, prevent, or prosecute money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or other crimes.

(12) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other commonwealth, territory, or possession of the United States.

(13) UNIQUE IDENTIFYING NUMBER.—The term “unique identifying number” means, with respect to an individual or an entity with a sole member, the unique identifying number from an acceptable identification document.

(14) UNITED STATES PERSON.—The term “United States person” has the meaning given the term in section 7701(a) of the Internal Revenue Code of 1986.

(b) BENEFICIAL OWNERSHIP INFORMATION REPORTING.—

(1) REPORTING.—

(A) IN GENERAL.—In accordance with regulations prescribed by the Secretary of the Treasury, each reporting company shall submit to FinCEN a report that contains the information described in paragraph (2).

(B) REPORTING OF EXISTING ENTITIES.—In accordance with regulations prescribed by the Secretary of the Treasury, any reporting company that has been formed or registered before the effective date of the regulations prescribed under this subsection shall, in a timely manner, and not later than 2 years after the effective date of the regulations prescribed under this subsection, submit to FinCEN a report that contains the information described in paragraph (2).

(C) REPORTING AT TIME OF FORMATION OR REGISTRATION.—In accordance with regulations prescribed by the Secretary of the Treasury, any reporting company that has been formed or registered after the effective date of the regulations promulgated under this subsection shall, at the time of formation or registration, submit to FinCEN a report that contains the information described in paragraph (2).

(D) UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERSHIP.—In accordance with regulations prescribed by the Secretary of the Treasury, a reporting company shall, in a timely manner, and not later than 1 year after the date on which there is a change with respect to any information described in paragraph (2), submit to FinCEN a report that updates the information relating to the change.

(E) TREASURY REVIEW OF UPDATED REPORTING FOR CHANGES IN BENEFICIAL OWNERSHIP.—The Secretary of the Treasury, in consultation with the Attorney General and

the Secretary of Homeland Security, shall conduct a review to evaluate—

(i) the necessity of a requirement for corporations, limited liability companies, or other similar entities to update the report on beneficial ownership information in paragraph (2), related to a change in ownership, within a shorter period of time than required under subparagraph (D), taking into account the updating requirements under subparagraph (D) and the information contained in the reports;

(ii) the benefit to law enforcement and national security officials that might be derived from, and the burden that a requirement to update the list of beneficial owners within a shorter period of time after a change in the list of beneficial owners would impose on corporations, limited liability companies, or other similar entities; and

(iii) not later than 2 years after the date of enactment of this section, incorporate ² into the regulations, as appropriate, any changes necessary to implement the findings and determinations based on the review required under this subparagraph.

(F) REGULATION REQUIREMENTS.—In promulgating the regulations required under subparagraphs (A) through (D), the Secretary of the Treasury shall, to the greatest extent practicable—

(i) establish partnerships with State, local, and Tribal governmental agencies;

(ii) collect information described in paragraph (2) through existing Federal, State, and local processes and procedures;

(iii) minimize burdens on reporting companies associated with the collection of the information described in paragraph (2), in light of the private compliance costs placed on legitimate businesses, including by identifying any steps taken to mitigate the costs relating to compliance with the collection of information; and

(iv) collect information described in paragraph (2) in a form and manner that ensures the information is highly useful in—

(I) facilitating important national security, intelligence, and law enforcement activities; and

(II) confirming beneficial ownership information provided to financial institutions to facilitate the compliance of the financial institutions with anti-money laundering, countering the financing of terrorism, and customer due diligence requirements under applicable law.

(G) REGULATORY SIMPLIFICATION.—To simplify compliance with this section for reporting companies and financial institutions, the Secretary of the Treasury shall ensure that the regulations prescribed by the Secretary under this subsection are added to part 1010 of title 31, Code of Federal Regulations, or any successor thereto.

(2) REQUIRED INFORMATION.—

(A) IN GENERAL.—In accordance with regulations prescribed by the Secretary of the Treasury, a report delivered under paragraph (1) shall, except as provided in subparagraph (B), identify each beneficial owner of the applicable reporting company and each applicant with respect to that reporting company by—

- (i) full legal name;
- (ii) date of birth;
- (iii) current, as of the date on which the report is delivered, residential or business street address; and
- (iv)(I) unique identifying number from an acceptable identification document; or
- (II) FinCEN identifier in accordance with requirements in paragraph (3).

(B) REPORTING REQUIREMENT FOR EXEMPT ENTITIES HAVING AN OWNERSHIP INTEREST.—If an exempt entity described in subsection (a)(11)(B) has or will have a direct or indirect ownership interest in a reporting company, the reporting company or the applicant—

- (i) shall, with respect to the exempt entity, only list the name of the exempt entity; and
- (ii) shall not be required to report the information with respect to the exempt entity otherwise required under subparagraph (A).

(C) REPORTING REQUIREMENT FOR CERTAIN POOLED INVESTMENT VEHICLES.—Any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xviii) and is formed under the laws of a foreign country shall file with FinCEN a written certification that provides identification information of an individual that exercises substantial control over the pooled investment vehicle in the same manner as required under this subsection.

(D) REPORTING REQUIREMENT FOR EXEMPT SUBSIDIARIES.—In accordance with the regulations promulgated by the Secretary, any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xxii), shall, at the time such entity no longer meets the criteria described in subsection (a)(11)(B)(xxii), submit to FinCEN a report containing the information required under subparagraph (A).

(E) REPORTING REQUIREMENT FOR EXEMPT GRANDFATHERED ENTITIES.—In accordance with the regulations promulgated by the Secretary, any corporation, limited liability company, or other similar entity that is an exempt entity described in subsection (a)(11)(B)(xxiii), shall, at the time such entity no longer meets the criteria described in subsection (a)(11)(B)(xxiii), submit to FinCEN a report containing the information required under subparagraph (A).

(3) FINCEN IDENTIFIER.—

(A) ISSUANCE OF FINCEN IDENTIFIER.—

- (i) IN GENERAL.—Upon request by an individual who has provided FinCEN with the information described in paragraph (2)(A) pertaining to the individual, or by

an entity that has reported its beneficial ownership information to FinCEN in accordance with this section, FinCEN shall issue a FinCEN identifier to such individual or entity.

(ii) UPDATING OF INFORMATION.—An individual or entity with a FinCEN identifier shall submit filings with FinCEN pursuant to paragraph (1) updating any information described in paragraph (2) in a timely manner consistent with paragraph (1)(D).

(iii) EXCLUSIVE IDENTIFIER.—FinCEN shall not issue more than 1 FinCEN identifier to the same individual or to the same entity (including any successor entity).

(B) USE OF FINCEN IDENTIFIER FOR INDIVIDUALS.—Any person required to report the information described in paragraph (2) with respect to an individual may instead report the FinCEN identifier of the individual.

(C) USE OF FINCEN IDENTIFIER FOR ENTITIES.—If an individual is or may be a beneficial owner of a reporting company by an interest held by the individual in an entity that, directly or indirectly, holds an interest in the reporting company, the reporting company may report the FinCEN identifier of the entity in lieu of providing the information required by paragraph (2)(A) with respect to the individual.

(4) REGULATIONS.—The Secretary of the Treasury shall—

(A) by regulation prescribe procedures and standards governing any report under paragraph (2) and any FinCEN identifier under paragraph (3); and

(B) in promulgating the regulations under subparagraph (A) to the extent practicable, consistent with the purposes of this section—

(i) minimize burdens on reporting companies associated with the collection of beneficial ownership information, including by eliminating duplicative requirements; and

(ii) ensure the beneficial ownership information reported to FinCEN is accurate, complete, and highly useful.

(5) EFFECTIVE DATE.—The requirements of this subsection shall take effect on the effective date of the regulations prescribed by the Secretary of the Treasury under this subsection, which shall be promulgated not later than 1 year after the date of enactment of this section.

(6) REPORT.—Not later than 1 year after the effective date described in paragraph (5), and annually thereafter for 2 years, the Secretary of the Treasury shall submit to Congress a report describing the procedures and standards prescribed to carry out paragraph (2), which shall include an assessment of—

(A) the effectiveness of those procedures and standards in minimizing reporting burdens (including through the elimination of duplicative requirements) and strengthening the accuracy of reports submitted under paragraph (2); and

(B) any alternative procedures and standards prescribed to carry out paragraph (2).

(c) RETENTION AND DISCLOSURE OF BENEFICIAL OWNERSHIP INFORMATION BY FINCEN.—

(1) RETENTION OF INFORMATION.—Beneficial ownership information required under subsection (b) relating to each reporting company shall be maintained by FinCEN for not fewer than 5 years after the date on which the reporting company terminates.

(2) DISCLOSURE.—

(A) PROHIBITION.—Except as authorized by this subsection and the protocols promulgated under this subsection, beneficial ownership information reported under this section shall be confidential and may not be disclosed by—

- (i) an officer or employee of the United States;
- (ii) an officer or employee of any State, local, or Tribal agency; or
- (iii) an officer or employee of any financial institution or regulatory agency receiving information under this subsection.

(B) SCOPE OF DISCLOSURE BY FINCEN.—FinCEN may disclose beneficial ownership information reported pursuant to this section only upon receipt of—

- (i) a request, through appropriate protocols—
 - (I) from a Federal agency engaged in national security, intelligence, or law enforcement activity, for use in furtherance of such activity; or
 - (II) from a State, local, or Tribal law enforcement agency, if a court of competent jurisdiction, including any officer of such a court, has authorized the law enforcement agency to seek the information in a criminal or civil investigation;
- (ii) a request from a Federal agency on behalf of a law enforcement agency, prosecutor, or judge of another country, including a foreign central authority or competent authority (or like designation), under an international treaty, agreement, convention, or official request made by law enforcement, judicial, or prosecutorial authorities in trusted foreign countries when no treaty, agreement, or convention is available—
 - (I) issued in response to a request for assistance in an investigation or prosecution by such foreign country; and
 - (II) that—
 - (aa) requires compliance with the disclosure and use provisions of the treaty, agreement, or convention, publicly disclosing any beneficial ownership information received; or
 - (bb) limits the use of the information for any purpose other than the authorized investigation or national security or intelligence activity;
- (iii) a request made by a financial institution subject to customer due diligence requirements, with the con-

sent of the reporting company, to facilitate the compliance of the financial institution with customer due diligence requirements under applicable law; or

(iv) a request made by a Federal functional regulator or other appropriate regulatory agency consistent with the requirements of subparagraph (C).

(C) FORM AND MANNER OF DISCLOSURE TO FINANCIAL INSTITUTIONS AND REGULATORY AGENCIES.—The Secretary of the Treasury shall, by regulation, prescribe the form and manner in which information shall be provided to a financial institution under subparagraph (B)(iii), which regulation shall include that the information shall also be available to a Federal functional regulator or other appropriate regulatory agency, as determined by the Secretary, if the agency—

(i) is authorized by law to assess, supervise, enforce, or otherwise determine the compliance of the financial institution with the requirements described in that subparagraph;

(ii) uses the information solely for the purpose of conducting the assessment, supervision, or authorized investigation or activity described in clause (i); and

(iii) enters into an agreement with the Secretary providing for appropriate protocols governing the safekeeping of the information.

(3) APPROPRIATE PROTOCOLS.—The Secretary of the Treasury shall establish by regulation protocols described in paragraph (2)(A) that—

(A) protect the security and confidentiality of any beneficial ownership information provided directly by the Secretary;

(B) require the head of any requesting agency, on a non-delegable basis, to approve the standards and procedures utilized by the requesting agency and certify to the Secretary semi-annually that such standards and procedures are in compliance with the requirements of this paragraph;

(C) require the requesting agency to establish and maintain, to the satisfaction of the Secretary, a secure system in which such beneficial ownership information provided directly by the Secretary shall be stored;

(D) require the requesting agency to furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, that describes the procedures established and utilized by such agency to ensure the confidentiality of the beneficial ownership information provided directly by the Secretary;

(E) require a written certification for each authorized investigation or other activity described in paragraph (2) from the head of an agency described in paragraph (2)(B)(i)(I), or their designees, that—

(i) states that applicable requirements have been met, in such form and manner as the Secretary may prescribe; and

(ii) at a minimum, sets forth the specific reason or reasons why the beneficial ownership information is

relevant to an authorized investigation or other activity described in paragraph (2);

(F) require the requesting agency to limit, to the greatest extent practicable, the scope of information sought, consistent with the purposes for seeking beneficial ownership information;

(G) restrict, to the satisfaction of the Secretary, access to beneficial ownership information to whom disclosure may be made under the provisions of this section to only users at the requesting agency—

(i) who are directly engaged in the authorized investigation or activity described in paragraph (2);

(ii) whose duties or responsibilities require such access;

(iii) who—

(I) have undergone appropriate training; or

(II) use staff to access the database who have undergone appropriate training;

(iv) who use appropriate identity verification mechanisms to obtain access to the information; and

(v) who are authorized by agreement with the Secretary to access the information;

(H) require the requesting agency to establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to an auditable trail of each request for beneficial ownership information submitted to the Secretary by the agency, including the reason for the request, the name of the individual who made the request, the date of the request, any disclosure of beneficial ownership information made by or to the agency, and any other information the Secretary of the Treasury determines is appropriate;

(I) require that the requesting agency receiving beneficial ownership information from the Secretary conduct an annual audit to verify that the beneficial ownership information received from the Secretary has been accessed and used appropriately, and in a manner consistent with this paragraph and provide the results of that audit to the Secretary upon request;

(J) require the Secretary to conduct an annual audit of the adherence of the agencies to the protocols established under this paragraph to ensure that agencies are requesting and using beneficial ownership information appropriately; and

(K) provide such other safeguards which the Secretary determines (and which the Secretary prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the beneficial ownership information.

(4) VIOLATION OF PROTOCOLS.—Any employee or officer of a requesting agency under paragraph (2)(B) that violates the protocols described in paragraph (3), including unauthorized disclosure or use, shall be subject to criminal and civil penalties under subsection (h)(3)(B).

(5) DEPARTMENT OF THE TREASURY ACCESS.—

(A) IN GENERAL.—Beneficial ownership information shall be accessible for inspection or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure subject to procedures and safeguards prescribed by the Secretary of the Treasury.

(B) TAX ADMINISTRATION PURPOSES.—Officers and employees of the Department of the Treasury may obtain access to beneficial ownership information for tax administration purposes in accordance with this subsection.

(6) REJECTION OF REQUEST.—The Secretary of the Treasury—

(A) shall reject a request not submitted in the form and manner prescribed by the Secretary under paragraph (2)(C); and

(B) may decline to provide information requested under this subsection upon finding that—

(i) the requesting agency has failed to meet any other requirement of this subsection;

(ii) the information is being requested for an unlawful purpose; or

(iii) other good cause exists to deny the request.

(7) SUSPENSION.—The Secretary of the Treasury may suspend or debar a requesting agency from access for any of the grounds set forth in paragraph (6), including for repeated or serious violations of any requirement under paragraph (2).

(8) SECURITY PROTECTIONS.—The Secretary of the Treasury shall maintain information security protections, including encryption, for information reported to FinCEN under subsection (b) and ensure that the protections—

(A) are consistent with standards and guidelines developed under subchapter II of chapter 35 of title 44; and

(B) incorporate Federal information system security controls for high-impact systems, excluding national security systems, consistent with applicable law to prevent the loss of confidentiality, integrity, or availability of information that may have a severe or catastrophic adverse effect.

(9) REPORT BY THE SECRETARY.—Not later than 1 year after the effective date of the regulations prescribed under this subsection, and annually thereafter for 5 years, the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report, which—

(A) may include a classified annex; and

(B) shall, with respect to each request submitted under paragraph (2)(B)(i)(II) during the period covered by the report, and consistent with protocols established by the Secretary that are necessary to protect law enforcement sensitive, tax-related, or classified information, include—

(i) the date on which the request was submitted;

(ii) the source of the request;

(iii) whether the request was accepted or rejected or is pending; and

(iv) a general description of the basis for rejecting the such request, if applicable.

(10) AUDIT BY THE COMPTROLLER GENERAL.—Not later than 1 year after the effective date of the regulations prescribed under this subsection, and annually thereafter for 6 years, the Comptroller General of the United States shall—

(A) audit the procedures and safeguards established by the Secretary of the Treasury under those regulations, including duties for verification of requesting agencies systems and adherence to the protocols established under this subsection, to determine whether such safeguards and procedures meet the requirements of this subsection and that the Department of the Treasury is using beneficial ownership information appropriately in a manner consistent with this subsection; and

(B) submit to the Secretary of the Treasury, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report that contains the findings and determinations with respect to any audit conducted under this paragraph.

(11) DEPARTMENT OF THE TREASURY TESTIMONY.—

(A) IN GENERAL.—Not later than March 31 of each year for **[5 years]** *10 years* beginning in 2022, the Director shall be made available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, or an appropriate subcommittee thereof, regarding FinCEN issues, including, specifically, issues relating to—

(i) anticipated plans, goals, and resources necessary for operations of FinCEN in implementing the requirements of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(ii) the adequacy of appropriations for FinCEN in the current and the previous fiscal year to—

(I) ensure that the requirements and obligations imposed upon FinCEN by the Anti-Money Laundering Act of 2020 and the amendments made by that Act are completed as efficiently, effectively, and expeditiously as possible; and

(II) provide for robust and effective implementation and enforcement of the provisions of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(iii) strengthen FinCEN management efforts, as necessary and as identified by the Director, to meet the requirements of the Anti-Money Laundering Act of 2020 and the amendments made by that Act;

(iv) provide for the necessary public outreach to ensure the broad dissemination of information regarding any new program requirements provided for in the Anti-Money Laundering Act of 2020 and the amendments made by that Act, including—

(I) educating the business community on the goals and operations of the new beneficial ownership database; and

(II) disseminating to the governments of countries that are allies or partners of the United States information on best practices developed by FinCEN related to beneficial ownership information retention and use;

(v) any policy recommendations that could facilitate and improve communication and coordination between the private sector, FinCEN, and the Federal, State, and local agencies and entities involved in implementing innovative approaches to meet their obligations under the Anti-Money Laundering Act of 2020 and the amendments made by that Act, the Bank Secrecy Act (as defined in section 6003 of the Anti-Money Laundering Act of 2020), and other anti-money laundering compliance laws; and

(vi) any other matter that the Director determines is appropriate.

(B) TESTIMONY CLASSIFICATION.—The testimony required under subparagraph (A)—

(i) shall be submitted in unclassified form; and

(ii) may include a classified portion.

(d) AGENCY COORDINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, to the greatest extent practicable, update the information described in subsection (b) by working collaboratively with other relevant Federal, State, and Tribal agencies.

(2) INFORMATION FROM RELEVANT FEDERAL, STATE, AND TRIBAL AGENCIES.—Relevant Federal, State, and Tribal agencies, as determined by the Secretary of the Treasury, shall, to the extent practicable, and consistent with applicable legal protections, cooperate with and provide information requested by FinCEN for purposes of maintaining an accurate, complete, and highly useful database for beneficial ownership information.

(3) REGULATIONS.—The Secretary of the Treasury, in consultation with the heads of other relevant Federal agencies, may promulgate regulations as necessary to carry out this subsection.

(e) NOTIFICATION OF FEDERAL OBLIGATIONS.—

(1) FEDERAL.—The Secretary of the Treasury shall take reasonable steps to provide notice to persons of their obligations to report beneficial ownership information under this section, including by causing appropriate informational materials describing such obligations to be included in 1 or more forms or other informational materials regularly distributed by the Internal Revenue Service and FinCEN.

(2) STATES AND INDIAN TRIBES.—

(A) IN GENERAL.—As a condition of the funds made available under this section, each State and Indian Tribe shall, not later than 2 years after the effective date of the regulations promulgated under subsection (b)(4), take the following actions:

(i) The secretary of a State or a similar office in each State or Indian Tribe responsible for the formation or registration of entities created by the filing of a public document with the office under the law of the State or Indian Tribe shall periodically, including at the time of any initial formation or registration of an entity, assessment of an annual fee, or renewal of any license to do business in the United States and in connection with State or Indian Tribe corporate tax assessments or renewals—

(I) notify filers of their requirements as reporting companies under this section, including the requirements to file and update reports under paragraphs (1) and (2) of subsection (b); and

(II) provide the filers with a copy of the reporting company form created by the Secretary of the Treasury under this subsection or an internet link to that form.

(ii) The secretary of a State or a similar office in each State or Indian Tribe responsible for the formation or registration of entities created by the filing of a public document with the office under the law of the State or Indian Tribes shall update the websites, forms relating to incorporation, and physical premises of the office to notify filers of their requirements as reporting companies under this section, including providing an internet link to the reporting company form created by the Secretary of the Treasury under this section.

(B) NOTIFICATION FROM THE DEPARTMENT OF THE TREASURY.—A notification under clause (i) or (ii) of subparagraph (A) shall explicitly state that the notification is on behalf of the Department of the Treasury for the purpose of preventing money laundering, the financing of terrorism, proliferation financing, serious tax fraud, and other financial crime by requiring nonpublic registration of business entities formed or registered to do business in the United States.

(f) NO BEARER SHARE CORPORATIONS OR LIMITED LIABILITY COMPANIES.—A corporation, limited liability company, or other similar entity formed under the laws of a State or Indian Tribe may not issue a certificate in bearer form evidencing either a whole or fractional interest in the entity.

(g) REGULATIONS.—In promulgating regulations carrying out this section, the Director shall reach out to members of the small business community and other appropriate parties to ensure efficiency and effectiveness of the process for the entities subject to the requirements of this section.

(h) PENALTIES.—

(1) REPORTING VIOLATIONS.—It shall be unlawful for any person to—

(A) willfully provide, or attempt to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph or document, to FinCEN in accordance with subsection (b); or

(B) willfully fail to report complete or updated beneficial ownership information to FinCEN in accordance with subsection (b).

(2) UNAUTHORIZED DISCLOSURE OR USE.—Except as authorized by this section, it shall be unlawful for any person to knowingly disclose or knowingly use the beneficial ownership information obtained by the person through—

(A) a report submitted to FinCEN under subsection (b);

or

(B) a disclosure made by FinCEN under subsection (c).

(3) CRIMINAL AND CIVIL PENALTIES.—

(A) REPORTING VIOLATIONS.—Any person that violates subparagraph (A) or (B) of paragraph (1)—

(i) shall be liable to the United States for a civil penalty of not more than \$500 for each day that the violation continues or has not been remedied; and

(ii) may be fined not more than \$10,000, imprisoned for not more than 2 years, or both.

(B) UNAUTHORIZED DISCLOSURE OR USE VIOLATIONS.—Any person that violates paragraph (2)—

(i) shall be liable to the United States for a civil penalty of not more than \$500 for each day that the violation continues or has not been remedied; and

(ii)(I) shall be fined not more than \$250,000, or imprisoned for not more than 5 years, or both; or

(II) while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 10 years, or both.

(C) SAFE HARBOR.—

(i) SAFE HARBOR.—

(I) IN GENERAL.—Except as provided in subclause (II), a person shall not be subject to civil or criminal penalty under subparagraph (A) if the person—

(aa) has reason to believe that any report submitted by the person in accordance with subsection (b) contains inaccurate information; and

(bb) in accordance with regulations issued by the Secretary, voluntarily and promptly, and in no case later than 90 days after the date on which the person submitted the report, submits a report containing corrected information.

(II) EXCEPTIONS.—A person shall not be exempt from penalty under clause (i) if, at the time the person submits the report required by subsection (b), the person—

(aa) acts for the purpose of evading the reporting requirements under subsection (b); and

(bb) has actual knowledge that any information contained in the report is inaccurate.

(ii) ASSISTANCE.—FinCEN shall provide assistance to any person seeking to submit a corrected report in accordance with clause (i)(I).

(4) USER COMPLAINT PROCESS.—

(A) IN GENERAL.—The Inspector General of the Department of the Treasury, in coordination with the Secretary of the Treasury, shall provide public contact information to receive external comments or complaints regarding the beneficial ownership information notification and collection process or regarding the accuracy, completeness, or timeliness of such information.

(B) REPORT.—The Inspector General of the Department of the Treasury shall submit to Congress a periodic report that—

(i) summarizes external comments or complaints and related investigations conducted by the Inspector General related to the collection of beneficial ownership information; and

(ii) includes recommendations, in coordination with FinCEN, to improve the form and manner of the notification, collection and updating processes of the beneficial ownership information reporting requirements to ensure the beneficial ownership information reported to FinCEN is accurate, complete, and highly useful.

(5) TREASURY OFFICE OF INSPECTOR GENERAL INVESTIGATION IN THE EVENT OF A CYBERSECURITY BREACH.—

(A) IN GENERAL.—In the event of a cybersecurity breach that results in substantial unauthorized access and disclosure of sensitive beneficial ownership information, the Inspector General of the Department of the Treasury shall conduct an investigation into FinCEN cybersecurity practices that, to the extent possible, determines any vulnerabilities within FinCEN information security and confidentiality protocols and provides recommendations for fixing those deficiencies.

(B) REPORT.—The Inspector General of the Department of the Treasury shall submit to the Secretary of the Treasury a report on each investigation conducted under subparagraph (A).

(C) ACTIONS OF THE SECRETARY.—Upon receiving a report submitted under subparagraph (B), the Secretary of the Treasury shall—

(i) determine whether the Director had any responsibility for the cybersecurity breach or whether policies, practices, or procedures implemented at the direction of the Director led to the cybersecurity breach; and

(ii) submit to Congress a written report outlining the findings of the Secretary, including a determination by the Secretary on whether to retain or dismiss the individual serving as the Director.

(6) DEFINITION.—In this subsection, the term “willfully” means the voluntary, intentional violation of a known legal duty.

(i) CONTINUOUS REVIEW OF EXEMPT ENTITIES.—

(1) IN GENERAL.—On and after the effective date of the regulations promulgated under subsection (b)(4), if the Secretary of the Treasury makes a determination, which may be based on information contained in the report required under section 6502(c) of the Anti-Money Laundering Act of 2020 or on any other information available to the Secretary, that an entity or class of entities described in subsection (a)(11)(B) has been involved in significant abuse relating to money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or any other financial crime, not later than 90 days after the date on which the Secretary makes the determination, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that explains the reasons for the determination and any administrative or legislative recommendations to prevent such abuse.

(2) CLASSIFIED ANNEX.—The report required by paragraph (1)—

- (A) shall be submitted in unclassified form; and
- (B) may include a classified annex.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to FinCEN for each of the 3 fiscal years beginning on the effective date of the regulations promulgated under subsection (b)(4), such sums as may be necessary to carry out this section, including allocating funds to the States to pay reasonable costs relating to compliance with the requirements of such section.

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