

105TH CONGRESS
2D SESSION

H. R. 4005

AN ACT

To amend titles 18 and 31, United States Code, to improve methods for preventing money laundering and other financial crimes, and for other purposes.

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To amend titles 18 and 31, United States Code, to improve methods for preventing money laundering and other financial crimes, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Money Laundering Deterrence Act of 1998”.

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

See. 1. Short title; table of contents.
See. 2. Findings and purposes.
See. 3. Amendments relating to reporting of suspicious activities.
See. 4. Expansion of scope of summons power.
See. 5. Penalties for violations of geographic targeting orders and certain recordkeeping requirements.
See. 6. Repeal of certain reporting requirements.
See. 7. Limited exemption from Paperwork Reduction Act.
See. 8. Promulgation of “know your customer” regulations.
See. 9. Report on private banking activities.
See. 10. Availability of certain account information.
See. 11. Sense of the Congress.
See. 12. Designation of foreign high intensity money laundering areas.
See. 13. Doubling of criminal penalties for violations of laws aimed at preventing money laundering in foreign high intensity money laundering areas.
See. 14. Laundering money through a foreign bank.
See. 15. Criminal forfeiture for money laundering conspiracies.
See. 16. Charging money laundering as a course of conduct.
See. 17. Venue in money laundering cases.
See. 18. Technical amendment to restore wiretap authority for certain money laundering offenses.
See. 19. Knowledge that the property is the proceeds of a felony.
See. 20. Coverage of foreign bank branches in the territories.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) The dollar amount involved in international
9 money laundering likely exceeds \$500,000,000,000
10 annually.

11 (2) Organized crime groups are continually devising new methods to launder the proceeds of illegal
12 activities in an effort to subvert the transaction reporting requirements of subchapter II of chapter 53

1 of title 31, United States Code, and chapter 2 of
2 Public Law 91-508.

3 (3) A number of methods to launder the pro-
4 ceeds of criminal activity were identified and de-
5 scribed in congressional hearings, including the use
6 of financial service providers which are not deposi-
7 tory institutions, such as money transmitters and
8 check cashing services, the purchase and resale of
9 durable goods, and the exchange of foreign currency
10 in the so-called “black market”.

11 (4) Recent successes in combating domestic
12 money laundering have involved the application of
13 the heretofore seldom-used authority granted to the
14 Secretary of the Treasury and the cooperative
15 efforts of Federal, State, and local law enforcement
16 agencies.

17 (5) Such successes have been exemplified by the
18 implementation of the geographic targeting order in
19 New York City and through the work of the El
20 Dorado task force, a group comprised of agents of
21 Department of the Treasury law enforcement agen-
22 cies, New York State troopers, and New York City
23 police officers.

24 (6) Money laundering by international criminal
25 enterprises challenges the legitimate authority of na-

1 tional governments, corrupts government institu-
2 tions, endangers the financial and economic stability
3 of nations, and routinely violates legal norms, prop-
4 erty rights, and human rights. In some countries,
5 such as Columbia, Mexico, and Russia, the wealth
6 and power of organized criminal enterprises rivals
7 their own government's.

8 (7) The structure of international criminal enter-
9 prises engaged in money laundering is complex,
10 diverse, and fragmented. Organized criminal enter-
11 prises such as the Colombian and Mexican cartels,
12 the Russian “mafya”, Sicilian crime families, and
13 Chinese gangs are highly resistant to conventional
14 law enforcement techniques. Their financial manage-
15 ment and organizational infrastructure are highly
16 sophisticated and difficult to track because of the
17 globalization of the financial service industry.

18 (b) PURPOSES.—The purposes of this Act are as fol-
19 lows:

20 (1) To amend subchapter II of chapter 53 of
21 title 31, United States Code, to provide the law en-
22 forcement community with the necessary legal au-
23 thority to combat money laundering.

24 (2) To expedite the issuance by the Secretary of
25 the Treasury of regulations designed to deter money

1 laundering activities at certain types of financial in-
2 stitutions.

3 **SEC. 3. AMENDMENTS RELATING TO REPORTING OF SUS-**
4 **PICIOUS ACTIVITIES.**

5 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
6 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
7 31, United States Code, is amended to read as follows:

8 **“(3) LIABILITY FOR DISCLOSURES.—**

9 **“(A) IN GENERAL.—**Notwithstanding any
10 other provision of law—

11 **“(i) any financial institution that—**

12 **“(I) makes a disclosure of any**
13 possible violation of law or regulation
14 to an appropriate government agency;
15 or

16 **“(II) makes a disclosure pursuant**
17 to this subsection or any other au-
18 thority;

19 **“(ii) any director, officer, employee, or**
20 agent of such institution who makes, or re-
21 quires another to make any such disclo-
22 sure; and

23 **“(iii) any independent public account-**
24 ant who audits any such financial institu-

1 tion and makes a disclosure described in
2 clause (i),

3 shall not be liable to any person under any law
4 or regulation of the United States, any con-
5 stitution, law, or regulation of any State or po-
6 litical subdivision thereof, or under any contract
7 or other legally enforceable agreement (includ-
8 ing any arbitration agreement), for such disclo-
9 sure or for any failure to notify the person who
10 is the subject of such disclosure or any other
11 person identified in the disclosure.

1 “(ii) any immunity against, or other-
2 wise affecting, any civil or criminal action
3 brought by any government or agency of
4 government to enforce any constitution,
5 law, or regulation of such government or
6 agency.”.

7 (b) PROHIBITION ON NOTIFICATION OF DISCLO-
8 SURES.—Section 5318(g)(2) of title 31, United States
9 Code, is amended to read as follows:

10 “(2) NOTIFICATION PROHIBITED.—

11 “(A) IN GENERAL.—If a financial institu-
12 tion, any director, officer, employee, or agent of
13 any financial institution, or any independent
14 public accountant who audits any financial in-
15 stitution, voluntarily or pursuant to this section
16 or any other authority, reports a suspicious
17 transaction to an appropriate government agen-
18 cy—

19 “(i) the financial institution, director,
20 officer, employee, agent, or accountant
21 may not notify any person involved in the
22 transaction that the transaction has been
23 reported and may not disclose any infor-
24 mation included in the report to any such
25 person; and

1 “(ii) any other person, including any
2 officer or employee of any government,
3 who has any knowledge that such report
4 was made may not disclose to any person
5 involved in the transaction that the trans-
6 action has been reported or any informa-
7 tion included in the report.

8 “(B) COORDINATION WITH PARAGRAPH
9 (5).—Subparagraph (A) shall not be construed
10 as prohibiting any financial institution, or any
11 director, officer, employee, or agent of such in-
12 stitution, from including, in a written employ-
13 ment reference that is provided in accordance
14 with paragraph (5) in response to a request
15 from another financial institution, information
16 that was included in a report to which subpara-
17 graph (A) applies, but such written employment
18 reference may not disclose that such informa-
19 tion was also included in any such report or
20 that such report was made.”.

21 (c) AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-
22 LEGAL ACTIVITY IN EMPLOYMENT REFERENCES.—Sec-
23 tion 5318(g) of title 31, United States Code, is amended
24 by adding at the end the following new paragraph:

1 “(5) EMPLOYMENT REFERENCES MAY INCLUDE
2 SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIV-
3 ITY.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of law and subject to subparagraph
6 (B) of this paragraph and paragraph
7 (2)(C), any financial institution, and any direc-
8 tor, officer, employee, or agent of such institu-
9 tion, may disclose, in any written employment
10 reference relating to a current or former insti-
11 tution-affiliated party of such institution which
12 is provided to another financial institution in
13 response to a request from such other institu-
14 tion, information concerning the possible in-
15 volvement of such institution-affiliated party in
16 any suspicious transaction relevant to a possible
17 violation of law or regulation.

18 “(B) LIMIT ON LIABILITY FOR DISCLO-
19 SURES.—A financial institution, and any direc-
20 tor, officer, employee, or agent of such institu-
21 tion, shall not be liable to any person under any
22 law or regulation of the United States, any con-
23 stitution, law, or regulation of any State or po-
24 litical subdivision thereof, or under any contract
25 or other legally enforceable agreement (includ-

20 (d) AMENDMENTS RELATING TO AVAILABILITY OF
21 SUSPICIOUS ACTIVITY REPORTS FOR OTHER AGEN-
22 CIES.—Section 5319 of title 31, United States Code, is
23 amended—

1 (1) in the 1st sentence, by striking "5314, or
2 5316" and inserting "5313A, 5314, 5316, or
3 5318(g);

18 SEC. 4. EXPANSION OF SCOPE OF SUMMONS POWER.

19 Section 5318(b)(1) of title 31, United States Code,
20 is amended by inserting “examinations to determine com-
21 pliance with the requirements of this subchapter, section
22 21 of the Federal Deposit Insurance Act, and chapter 2
23 of Public Law 91–508 and regulations prescribed pursu-
24 ant to such provisions, investigations relating to reports
25 filed by financial institutions or other persons pursuant

1 to any such provision or regulation, and" after "in connec-
2 tion with".

3 **SEC. 5. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TAR-**

4 **GETING ORDERS AND CERTAIN RECORD-**
5 **KEEPING REQUIREMENTS.**

6 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING
7 ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.—
8 Section 5321(a)(1) of title 31, United States Code, is
9 amended—

10 (1) by inserting "or order issued" after "regu-
11 lation prescribed" the 1st place it appears; and
12 (2) by inserting ", or willfully violating a regu-
13 lation prescribed under section 21 of the Federal
14 Deposit Insurance Act or under section 123 of Pub-
15 lic Law 91-508," before "is liable".

16 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-
17 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
18 MENTS.—Section 5322 of title 31, United States Code, is
19 amended—

20 (1) in each of subsections (a) and (b), by insert-
21 ing "or order issued" after "regulation prescribed"
22 the 1st place it appears;
23 (2) in subsection (a), by inserting ", or willfully
24 violating a regulation prescribed under section 21 of

1 the Federal Deposit Insurance Act or under section
2 123 of Public Law 91–508,” before “shall”; and

3 (3) in subsection (b), by inserting “or willfully
4 violating a regulation prescribed under section 21 of
5 the Federal Deposit Insurance Act or under section
6 123 of Public Law 91–508,” before “while violat-
7 ing”.

8 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
9 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
10 MENTS.—Section 5324(a) of title 31, United States Code,
11 is amended—

12 (1) in the portion of such section which pre-
13 cedes paragraph (1), by inserting “, the reporting
14 requirements imposed by any order issued under sec-
15 tion 5326, or the recordkeeping requirements im-
16 posed by any regulation prescribed under section 21
17 of the Federal Deposit Insurance Act or section 123
18 of Public Law 91–508” after “regulation prescribed
19 under any such section”; and

20 (2) in paragraphs (1) and (2), by inserting “,
21 to file a report required by any order issued under
22 section 5326, or to maintain a record required pur-
23 suant to any regulation prescribed under section 21
24 of the Federal Deposit Insurance Act or section 123
25 of Public Law 91–508” after “regulation prescribed

1 under any such section” where such term appears in
2 each such paragraph.

3 (d) INCREASE IN CIVIL PENALTIES FOR VIOLATION
4 OF CERTAIN RECORDKEEPING REQUIREMENTS.—

5 (1) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
6 tion 21(j)(1) of the Federal Deposit Insurance Act
7 (12 U.S.C. 1829b(j)(1)) is amended by striking
8 “\$10,000” and inserting “the greater of the amount
9 (not to exceed \$100,000) involved in the transaction
10 (if any) with respect to which the violation occurred
11 or \$25,000”.

12 (2) PUBLIC LAW 91–508.—Section 125(a) of
13 Public Law 91–508 (12 U.S.C. 1955(a)) is amended
14 by striking “\$10,000” and inserting “the greater of
15 the amount (not to exceed \$100,000) involved in the
16 transaction (if any) with respect to which the viola-
17 tion occurred or \$25,000”.

18 (e) CRIMINAL PENALTIES FOR VIOLATION OF CER-
19 TAIN RECORDKEEPING REQUIREMENTS.—

20 (1) SECTION 126.—Section 126 of Public Law
21 91–508 (12 U.S.C. 1956) is amended to read as fol-
22 lows:

23 **“§ 126. Criminal penalty**

24 “A person willfully violating this chapter, section 21
25 of the Federal Deposit Insurance Act, or a regulation pre-

1 scribed under this chapter or such section, shall be fined
2 not more than \$250,000, or imprisoned for not more than
3 five years, or both.”.

4 (2) SECTION 127.—Section 127 of Public Law
5 91–508 (12 U.S.C. 1957) is amended to read as fol-
6 lows:

7 **“§ 127. Additional criminal penalty in certain cases**

8 “A person willfully violating this chapter, section 21
9 of the Federal Deposit Insurance Act, or a regulation pre-
10 scribed under this chapter or such section, while violating
11 another law of the United States or as part of a pattern
12 of any illegal activity involving more than \$100,000 in a
13 12-month period, shall be fined not more than \$500,000,
14 imprisoned for not more than 10 years, or both.”.

15 **SEC. 6. REPEAL OF CERTAIN REPORTING REQUIREMENTS.**

16 Section 407(d) of the Money Laundering Suppression
17 Act of 1994 (31 U.S.C. 5311 note) is amended by striking
18 “subsection (c)” and inserting “subsection (c)(2)”.

19 **SEC. 7. LIMITED EXEMPTION FROM PAPERWORK REDUC-
20 TION ACT.**

21 Section 3518(c)(1) of title 44, United States Code,
22 is amended—

23 (1) by redesignating subparagraphs (C) and
24 (D) as subparagraphs (D) and (E), respectively; and

1 (2) by inserting after subparagraph (B) the fol-
2 lowing new subparagraph:

3 “(C) pursuant to regulations prescribed or or-
4 ders issued by the Secretary of the Treasury under
5 section 5318(h) or 5326 of title 31;”.

6 SEC. 8. PROMULGATION OF “KNOW YOUR CUSTOMER” REG- 7 ULATIONS.

8 (a) IN GENERAL.—Within 120 days after the date
9 of the enactment of this Act, the Secretary of the Treasury
10 shall promulgate “Know Your Customer” regulations for
11 financial institutions.

12 (b) RULE OF CONSTRUCTION.—This section shall not
13 be construed as precluding any supervisory agency for any
14 financial institution from requiring the financial institu-
15 tion to submit any information or report to the agency
16 or another agency pursuant to any other applicable provi-
17 sion of law.

18 (c) DEFINITION OF FINANCIAL INSTITUTION.—For
19 purposes of subsection (a), the term “financial institution”
20 shall not include any broker, dealer, investment company,
21 or investment adviser as such terms are defined in the
22 Securities Exchange Act of 1934.

23 SEC. 9. REPORT ON PRIVATE BANKING ACTIVITIES.

24 (a) IN GENERAL.—Within 1 year after the date of
25 the enactment of this Act, the Secretary of the Treasury,

1 in consultation with Federal banking agencies, shall sub-
2 mit to the Committee on Banking and Financial Services
3 of the House of Representatives and the Committee on
4 Banking, Housing, and Urban Affairs of the Senate a re-
5 port on—

6 (1) the nature and extent of private banking ac-
7 tivities in the United States;

8 (2) regulatory efforts to monitor such activities
9 and ensure that such activities are conducted in
10 compliance with the Bank Secrecy Act; and

11 (3) policies and procedures of depository insti-
12 tutions that are designed to ensure that such activi-
13 ties are conducted in compliance with the Bank Se-
14 crecy Act.

15 (b) PRIVATE BANKING ACTIVITIES.—In subsection
16 (a), the term “private banking activities”, with respect to
17 an institution, includes, among other things, personalized
18 services such as money management, financial advice, and
19 investment services that are provided to clients with high
20 net worth and that are not provided generally to all clients
21 of the institution.

1 **SEC. 10. AVAILABILITY OF CERTAIN ACCOUNT INFORMA-**
2 **TION.**

3 Section 5318(h) of title 31, United States Code, is
4 amended by adding at the end the following new para-
5 graph:

6 “(3) AVAILABILITY OF CERTAIN ACCOUNT IN-
7 FORMATION.—The Secretary of the Treasury shall
8 prescribe regulations under this subsection which re-
9 quire financial institutions to maintain all accounts
10 in such a way as to ensure that the name of an ac-
11 count holder and the number of the account are as-
12 sociated with all account activity of the account
13 holder, and to ensure that all such information is
14 available for purposes of account supervision and
15 law enforcement.”.

16 **SEC. 11. SENSE OF THE CONGRESS.**

17 It is the sense of the Congress that the Secretary of
18 the Treasury should make available to all Federal, State,
19 and local law enforcement agencies and financial regu-
20 latory agencies the full contents of the data base of reports
21 that have been filed pursuant to subchapter II of chapter
22 53 of title 31, United States Code.

1 SEC. 12. DESIGNATION OF FOREIGN HIGH INTENSITY

2 MONEY LAUNDERING AREAS.

3 (a) IN GENERAL.—Subchapter II of chapter 53 of
4 title 31, United States Code, is amended by inserting after
5 section 5326 the following new section:

6 **“§ 5327. Designation of foreign high intensity money**7 **laundering areas**

8 “(a) CRITERIA.—The Secretary of the Treasury, in
9 consultation with appropriate Federal law enforcement
10 agencies, shall develop criteria by which to identify areas
11 outside the United States in which money laundering ac-
12 tivities are concentrated.

13 “(b) DESIGNATION.—The Secretary of the Treasury
14 shall designate as a foreign high intensity money launder-
15 ing area any foreign country in which there is an area
16 which is identified, using the criteria developed under sub-
17 section (a), as an area in which money laundering activi-
18 ties are concentrated.

19 “(c) NOTICE.—On the designation under subsection
20 (b) of a country as a foreign high intensity money launder-
21 ing area, the Secretary of the Treasury shall provide writ-
22 ten notice to each insured depository institution (as de-
23 fined in section 3(c)(2) of the Federal Deposit Insurance
24 Act) and each depository institution holding company (as
25 defined in section 3(w)(1) of such Act) that has control
26 over an insured depository institution of the identity of

1 the foreign country and include with the notice a written
2 warning that there is a concentration of money laundering
3 activities in the foreign country.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such chapter is amended by inserting after the item
6 relating to section 5326 the following new item:

“5327. Designation of foreign high intensity money laundering areas.”.

7 **SEC. 13. DOUBLING OF CRIMINAL PENALTIES FOR VIOLA-**
8 **TIONS OF LAWS AIMED AT PREVENTING**
9 **MONEY LAUNDERING IN FOREIGN HIGH IN-**
10 **TENSITY MONEY LAUNDERING AREAS.**

11 Section 5322 of title 31, United States Code, is
12 amended by adding at the end the following new sub-
13 section:

14 “(d) The court may double the sentence of fine or
15 imprisonment, or both, that would otherwise be imposed
16 on a person for a violation described in subsection (a) or
17 (b) if person commits the violation with respect to a trans-
18 action involving a person in, a relationship maintained for
19 a person in, or a transport of a monetary instrument in-
20 volving a foreign country, knowing that the foreign coun-
21 try is designated under section 5327(b) as a foreign high
22 intensity money laundering area.”.

23 **SEC. 14. LAUNDERING MONEY THROUGH A FOREIGN BANK.**

24 Section 1956(c)(6) of title 18, United States Code,
25 is amended to read as follows:

1 “(6) the term ‘financial institution’ includes any
2 financial institution described in section 5312(a)(2)
3 of title 31, United States Code, or the regulations
4 promulgated thereunder, as well as any foreign
5 bank, as defined in paragraph (7) of section 1(b) of
6 the International Banking Act of 1978 (12 U.S.C.
7 3101(7)).”.

8 SEC. 15. CRIMINAL FORFEITURE FOR MONEY LAUNDERING
9 CONSPIRACIES.

10 Section 982(a)(1) of title 18, United States Code, is
11 amended by inserting “, or a conspiracy to commit any
12 such offense” after “of this title”.

13 SEC. 16. CHARGING MONEY LAUNDERING AS A COURSE OF
14 CONDUCT.

15 Section 1956(h) of title 18, United States Code, is
16 amended—

17 (1) by inserting "(1)" before "Any person";
18 and

19 (2) by adding at the end the following:

20 “(2) Any person who commits multiple violations of
21 this section or section 1957 that are part of the same
22 scheme or continuing course of conduct may be charged,
23 at the election of the Government, in a single count in
24 an indictment or information.”.

1 SEC. 17. VENUE IN MONEY LAUNDERING CASES.

2 Section 1956 of title 18, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(i) VENUE.—(1) Except as provided in paragraph
6 (2), a prosecution for an offense under this section or sec-
7 tion 1957 may be brought in—

8 “(A) any district in which the financial or mon-
9 etary transaction is conducted, or

10 “(B) any district where a prosecution for the
11 underlying specified unlawful activity could be
12 brought, if the defendant participated in the transfer
13 of the proceeds of the specified unlawful activity
14 from that district to the district where the financial
15 or monetary transaction is conducted.

16 “(2) A prosecution for an attempt or conspiracy of-
17 fense under this section or section 1957 may be brought
18 in the district where venue would lie for the completed of-
19 fense under paragraph (1), or in any other district where
20 an act in furtherance of the attempt or conspiracy took
21 place.”.

22 SEC. 18. TECHNICAL AMENDMENT TO RESTORE WIRETAP
23 AUTHORITY FOR CERTAIN MONEY LAUNDER-
24 ING OFFENSES.

25 Section 2516(1)(g) of title 18, United States Code,
26 is amended by striking “a violation of section 5322 of title

1 31, United States Code (dealing with the reporting of cur-
2 rency transactions)” and inserting “a violation of section
3 5322 or 5324 of title 31, United States Code (dealing with
4 the reporting and illegal structuring of currency trans-
5 actions)”.

6 **SEC. 19. KNOWLEDGE THAT THE PROPERTY IS THE PRO-**

7 **CEEDS OF A FELONY.**

8 Section 1956(c)(1) of title 18, United States Code,
9 is amended by inserting “, and regardless of whether or
10 not the person knew that the activity constituted a felony”
11 before the semicolon at the end.

12 **SEC. 20. COVERAGE OF FOREIGN BANK BRANCHES IN THE**

13 **TERRITORIES.**

14 Section 20(9) of title 18, United States Code, is
15 amended by inserting “, except that, for purposes of the
16 application of that definition, the term ‘State’ as used in
17 such Act includes a commonwealth, territory, or posses-
18 sion of the United States” after “Banking Act of 1978”.

Passed the House of Representatives October 5,
1998.

Attest:

Clerk.